

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

3 -----X  
4 ROCHELLE RAMOS,  
5 : CV-07-1250  
6 Plaintiff, : (ADS)  
7 : United States Courthouse  
8 -against- : Central Islip, New York  
9 COUNTY OF SUFFOLK, et al., : November 12, 2009  
10 : 9:40 a.m.  
11 Defendants. :  
12 -----X

13 TRANSCRIPT OF TRIAL  
14 BEFORE THE HONORABLE ARTHUR D. SPATT  
15 UNITED STATES DISTRICT COURT JUDGE, and a jury.

16 APPEARANCES:

17 For the Plaintiff: JON L. NORINSBERG, ESQ.  
18 BENNITTA JOSEPH, ESQ.  
19 225 Broadway, Suite 2700  
20 New York, New York 10007

21 For the Defendant: CHRISTINE MALAFI, ESQ.  
22 Suffolk County Attorney  
23 BY: SUSAN A. FLYNN, ESQ.  
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Proceedings recorded by mechanical stenography.  
Transcript produced by CAT.

Paul J. Lombardi, RMR, FCRR  
Official Court Reporter

1 (Trial resumes.)

2

3 THE CLERK: Jury entering.

4 (Jury enters the courtroom.)

5 THE COURT: Good morning, members of the jury.

6 ALL JURORS: Good morning, your Honor.

7 THE COURT: Please be seated.

8 I want to thank you, again, for your dedication,

9 sense of responsibility and one more thing, punctuality.

10 Very good.

11 You may proceed. Where's the witness?

12 (Whereupon, there was a pause in the  
13 proceedings.)

14

15 THE CLERK: Please stand and raise your right  
16 hand.

17 **VINCENT GERACI,**

18 having been duly sworn, was examined

19 and testified as follows:

20 THE CLERK: Please state your name and spell  
21 your last name slowly for the record.

22 THE WITNESS: Vincent Geraci, G-E-R-A-C-I.

23 THE COURT: Have a seat, doctor.

24 THE WITNESS: Thank you.

25 THE COURT: You may proceed.

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1 MR. NORINSBERG: Thank you, your Honor.

2 DIRECT EXAMINATION

3 BY MR. NORINSBERG:

4 Q. Good morning, Dr. Geraci.

5 A. Good morning, sir.

6 Q. When we left off last time, I was starting to ask you  
7 about the grievance form of Linda Kennedy.

8 Do you recall that, sir?

9 A. I recall we talked about a grievance form.

10 Yes.

11 Q. Okay.

12 At some point you learned that a grievance form  
13 had been filed by Linda Kennedy.

14 Correct?

15 A. From Richard Kaufman, yes.

16 Q. And a grievance form is a complaint filed by an  
17 inmate.

18 Is that correct?

19 A. Correct.

20 Q. And you wanted to see this written complaint that  
21 Linda Kennedy had filed.

22 Correct?

23 A. That she alleged to have filed.

24 Correct.

25 Q. Did you want to see the written complaint that Linda

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1 Kennedy had filed?

2 A. I did.

3 Q. You wanted to see how Linda Kennedy described this  
4 incident in her own words.

5 Correct?

6 A. Correct.

7 Q. You believed that this was potentially important  
8 information.

9 Correct?

10 A. Yes.

11 Q. And so you felt it was important enough for you  
12 personally to investigate further to the point of actually  
13 requesting to see the grievance form.

14 Correct?

15 A. I'm not an investigator.

16 I just wanted to see what the complaint was.

17 Q. Referring to your deposition page 68, line 18:

18 Question: And you felt that it was important  
19 enough to investigate this further to the point where you  
20 wanted to see the grievance complaint, correct?

21 Answer: Correct.

22 Do you recall giving that testimony at your  
23 deposition?

24 A. Yes.

25 I wanted to see her grievance form.

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1 Q. So even though you don't consider yourself an  
2 investigator, you thought that this form was important  
3 enough to investigate and see it.

4 Correct?

5 A. I just wanted to know what she was complaining about.

6 Q. You wanted to see the grievance form because it was  
7 directly from Linda Kennedy in her own words.

8 Correct?

9 A. Yes.

10 Q. Everything up to that point you had heard from other  
11 people.

12 Correct?

13 A. Correct.

14 Q. So you wanted to see the form she wrote, but you  
15 didn't want to actually interview her.

16 Correct?

17 A. Correct.

18 Q. So in your mind, when you were looking to get the  
19 form, that wasn't investigating this complaint, whereas,  
20 if you spoke to her in person, that would be investigating  
21 the complaint.

22 Correct?

23 A. Well, if I had the form I would know what the  
24 complaint was, and I would channel it accordingly.

25 Q. Now, when you spoke to Sergeant Campo the same day

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1       that you learned about Ms. Kennedy's allegations.

2                       Correct?

3       A.    Yes.

4       Q.    And you told Sergeant Campo that there were  
5       allegations made by an inmate and this inmate claimed she  
6       made a grievance and you wanted to see the grievance.

7                       Correct?

8       A.    Yes, that's correct.

9       Q.    And Sergeant Campo said he would look into it for  
10      you.

11                      Correct?

12      A.    Correct.

13      Q.    Dr. Geraci, apart from requesting a copy of the  
14      grievance form from Sergeant Campo, did you make any other  
15      requests of this person?

16      A.    I don't recall.

17      Q.    Did you request that Sergeant Campo investigate this  
18      matter further?

19      A.    I don't recall.

20      Q.    Did you request that Sergeant Campo report this  
21      matter to his superiors in internal security?

22      A.    I don't recall.

23      Q.    So you have no memory, as you sit here today, of  
24      making those requests.

25                      Correct?

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1 MS. FLYNN: Objection.

2 THE COURT: Overruled.

3 A. I don't recall the exact content of our discussion.

4 Q. Well, you saw Sergeant Campo the very next day,  
5 correct?

6 A. I believe so, yes.

7 Q. You learned about Linda Kennedy's allegation on  
8 January 18, 2006, and the very next day you saw  
9 Sergeant Campo again.

10 Correct?

11 A. I believe so, yes.

12 Q. And when you saw him the next day, you asked him  
13 whether he found the grievance form.

14 Correct?

15 A. I asked him -- yes, if there was a grievance form.

16 He said no.

17 Q. Referring to your deposition, page 56, line 23:

18 Question: --

19 MS. FLYNN: I'm sorry.

20 Could you give me a minute.

21 MR. NORINSBERG: 56, line 23.

22 MS. FLYNN: Thank you.

23 BY MR. NORINSBERG:

24 Q. Question: What did you say to Sergeant Campo when  
25 you saw him the next day?

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1 Answer: I said, did you find the grievance?

2 Question: What did Sergeant Campo say in  
3 response?

4 Answer: He said he did not find the grievance.

5 MS. FLYNN: Objection.

6 THE COURT: Sustained.

7 Strike out the question and answer. They were  
8 not inconsistent with the witness's present testimony.

9 BY MR. NORINSBERG:

10 Q. He didn't tell you at that point that he couldn't  
11 find the grievance, did he?

12 A. He just said he didn't have the grievance.

13 Q. But you continued to check with Sergeant Campo on a  
14 daily basis to see where this grievance form was.

15 Correct?

16 A. For several days, yes.

17 Q. Would you tell the jury, how many times did you go to  
18 Sergeant Campo and ask him to find this grievance form?

19 A. It was several days.

20 About five times or, perhaps, more. Every day I  
21 was inquiring about that.

22 Q. So at least five times you made inquiries of  
23 Sergeant Campo as to where this form was.

24 Correct?

25 A. On a daily basis, yes.



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1 Q. But never once during those five times did you ever  
2 ask Sergeant Campo to make an investigation into this  
3 matter, did you?

4 A. I don't recall.

5 Q. And you were never provided with a grievance form.

6 Is that correct?

7 A. I never saw the grievance form.

8 Q. To this day, do you have any idea what happened to  
9 that grievance form?

10 MS. FLYNN: Objection.

11 THE COURT: Overruled.

12 A. As I said in my deposition, I don't even know if  
13 there ever was a grievance form.

14 But, no. I never saw a grievance form.

15 Q. Doctor, you certainly believed there was a grievance  
16 form at the time, didn't you?

17 MS. FLYNN: Objection.

18 THE COURT: Sustained.

19 BY MR. NORINSBERG:

20 Q. When you kept going back each day to ask  
21 Sergeant Campo for the form, you were under the impression  
22 that that form existed.

23 Correct?

24 MS. FLYNN: Objection.

25 THE COURT: Sustained.

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1 BY MR. NORINSBERG:

2 Q. Why did you keep going back to Sergeant Campo day,  
3 after day, after day?

4 A. As I said, I didn't speak to any of the -- I didn't  
5 speak to Linda Kennedy directly.

6 And I wanted to see what she had written about  
7 in her complaint, which is often how I get information  
8 about what inmates complain about.

9 Q. Now, you had testified before that you are not an  
10 investigator.

11 Correct?

12 A. I don't investigate nonmedical issues, sir.

13 Q. And, yet, you were trying to get your hands on this  
14 grievance form, weren't you?

15 A. Because I didn't know what the content was.

16 Yes, sir.

17 Q. Now, you also spoke to Lieutenant Nolan in internal  
18 security at some point, correct?

19 THE COURT: Lieutenant who?

20 MR. NORINSBERG: Nolan, N-O-L-A-N.

21 A. I recall speaking to Lieutenant Nolan at some point  
22 before Gary Feinberg's arrest.

23 Q. Who is Lieutenant Nolan?

24 A. At the time I believe he was the director of internal  
25 security.

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1 Q. Can you tell the members of the jury when, exactly,  
2 did you speak to Lieutenant Nolan for the very first time  
3 regarding this case?

4 A. I can't recall.

5 Q. Well, Gary Feinberg was arrested February 8, 2006.

6 Correct?

7 A. Yes.

8 THE COURT: I'm sorry.

9 What date was that?

10 MR. NORINSBERG: February 8th, your Honor, 2006.

11 BY MR. NORINSBERG:

12 Q. When in relation to February 8, 2006, did you speak  
13 to Lieutenant Nolan?

14 A. I really can't recall.

15 Q. So it could have been February 7th?

16 It could have been February 8th?

17 A. It could have been the beginning of February.

18 Q. Do you know as you sit here?

19 A. I don't know exactly, no.

20 Q. Where did that conversation take place, Dr. Geraci?

21 A. I can't recall that either.

22 Q. Tell the members of the jury, how long did the  
23 conversation last with Lieutenant Nolan?

24 A. I just told him what I knew.

25 It was relatively brief.

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1 Q. Would it be fair to say you can't recall how long  
2 that conversation lasted?

3 MS. FLYNN: Objection.

4 THE COURT: Overruled.

5 A. I can't recall.

6 Q. Did you ask Lieutenant Nolan to investigate this  
7 matter further?

8 A. No. I didn't ask him.

9 Q. So you don't recall asking Sergeant Campo to  
10 investigate this matter, and you definitely didn't ask  
11 Lieutenant Nolan to investigate the matter.

12 Correct?

13 A. He was the director of internal security.

14 I didn't ask him.

15 Q. Well, you thought it was important enough to tell  
16 Lieutenant Nolan everything you knew up to that point.

17 Correct?

18 A. Which was hearsay.

19 Correct.

20 Q. Whatever it was, you thought it was important enough  
21 to share with Lieutenant Nolan.

22 Correct?

23 A. Correct.

24 Q. Why didn't you ask him at that point to investigate  
25 this matter?

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1 A. I believed an investigation was already underway.

2 Q. You believed an investigation was underway?

3 A. Yes.

4 Q. Who was conducting this investigation, to your  
5 knowledge?

6 A. I don't know.

7 Q. What division of Suffolk County was conducting the  
8 investigation at that point, as far as you know?

9 A. I don't know.

10 Q. So where did you get the notion that this matter was  
11 already being investigated?

12 A. I don't recall.

13 But I do remember that there was mention of an  
14 investigation underway.

15 Q. Who mentioned this investigation to you?

16 A. I'm sorry. I don't know.

17 Q. When did you first learn there was an investigation  
18 underway, Dr. Geraci?

19 A. I don't know, exactly.

20 Q. Was it before or after Gary Feinberg's arrest when  
21 you first learned that?

22 A. It was before his arrest.

23 Q. How far before the arrest did you learn that there  
24 was an investigation underway?

25 A. To the best of my recollection, the week of the 23rd

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1 of January.

2 Q. So --

3 A. But I didn't know who was investigating.

4 Q. So you don't know who told you there was an  
5 investigation. You don't know who was doing the  
6 investigation.

7 But somehow you learned that there was an  
8 investigation underway.

9 A. I had that impression, yes.

10 Q. You had that impression.

11 Did you report the allegations of  
12 Ms. Rickenbacker and the allegations of Ms. Kennedy to the  
13 entity who was conducting this investigation?

14 A. Sir, I work for the health department.

15 We are a separate division from the sheriff's  
16 office.

17 Q. Is that a yes or a no, sir?

18 A. I told you that I don't know under what circumstances  
19 I found out about an investigation.

20 I just heard about one.

21 Q. Now, you previously testified that you were given  
22 specific instructions not to investigate matters that were  
23 not of a medical nature.

24 Is that correct?

25 A. If it was a nonmedical issue, yes.

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1 Q. Who gave you those instructions?

2 A. Lieutenant Nolan.

3 Q. When did Lieutenant Nolan give you those instructions  
4 for the first time?

5 A. It was shortly after I had gotten to the jail  
6 facility.

7 MS. FLYNN: Your Honor, may we approach?

8 THE COURT: Okay.

9 (Continued on next page.)

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1 (Sidebar.)

2 MS. FLYNN: I don't know who those people are in  
3 the back of the courtroom.

4 THE COURT: Probably just visitors.

5 MS. FLYNN: I just wanted to check that they  
6 weren't witnesses.

7 THE COURT: I'm not going to go over and ask  
8 them.

9 MS. ZWILLING: Are they plaintiffs in the other  
10 cases?

11 MR. NORINSBERG: No.

12 THE COURT: They probably just came in to see  
13 how you are doing.

14 MS. FLYNN: Thank you.

15 THE COURT: They know how Ms. Zwilling's doing.

16 MS. FLYNN: Thank you, your Honor.

17 (Sidebar concluded.)

18 (Continued on next page.)

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1 (In open court.)

2 BY MR. NORINSBERG:

3 Q. You joined the jail in September of 2004.

4 Is that correct?

5 A. September 18, 2004.

6 At the time I was also running the Riverhead  
7 health center of Suffolk County.

8 Q. Is it your testimony, sir, that some point after you  
9 joined the jail in September of 2004, Lieutenant Nolan  
10 gave you specific instructions that you, Dr. Geraci, are  
11 not to investigate matters of a nonmedical nature?

12 Is that your testimony?

13 A. Lieutenant Nolan told me that nonmedical issues  
14 should not be investigated by myself.

15 Q. And did Lieutenant Nolan tell you who those  
16 nonmedical issues should be investigated by?

17 A. I believe he said the sheriff's office.

18 Q. Did he tell you that if you had an issue involving a  
19 nonmedical claim you should report it to internal security  
20 for investigation?

21 A. I don't recall who he specifically told me to report  
22 it to.

23 I report to Sergeant Campo, who is in charge of  
24 the medical unit.

25 Q. And Sergeant Campo, what's his position?

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1 A. He's a sergeant in charge of the medical unit as a  
2 correction officer.

3 Q. So he's the highest ranking correction officer in the  
4 medical unit?

5 A. He's --

6 MS. FLYNN: Objection.

7 THE COURT: Overruled.

8 A. He is stationed in the medical unit, and he's the  
9 highest stationed officer in the medical unit.

10 Q. To your knowledge, what action, if any, did  
11 Sergeant Campo take with respect to investigating these  
12 allegations?

13 A. I don't know.

14 Q. Did you ever ask him?

15 A. I only asked him about the grievance form.

16 Q. So you were interested in the grievance form, but not  
17 any investigation that he might be conducting.

18 Correct?

19 A. Regarding that, I don't know what he was doing, sir.

20 Q. Now, there came a time where you learned that  
21 Gary Feinberg had been arrested.

22 Is that correct?

23 A. Correct.

24 Q. And that came as a surprise to you that Mr. Feinberg  
25 was arrested.

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1 Correct?

2 A. I was shocked.

3 Q. So you were shocked when you first heard the  
4 allegation made by Linda Kennedy.

5 You were shocked again when you heard the  
6 allegations by Ms. Rickenbacker.

7 And then you were shocked for a third time when  
8 you learned that Mr. Feinberg was actually arrested on  
9 these charges.

10 Correct?

11 MS. FLYNN: Objection.

12 THE COURT: Sustained as to form.

13 BY MR. NORINSBERG:

14 Q. Dr. Geraci, you knew, with your own personal  
15 knowledge, that at least two separate inmates had made  
16 allegations of sexual misconduct against Mr. Feinberg.

17 Correct?

18 A. One made an allegation of inappropriate touching  
19 during an exam.

20 And the other one made an allegation of  
21 consensual relationship.

22 Q. Is that of your understanding, that as recently as  
23 January of 2006 it was still a consensual relationship?

24 Is that your understanding, sir?

25 A. Repeat the question, sir.

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1 Q. Is it your understanding that one of the inmates was  
2 still having a consensual relationship up to January of  
3 2006?

4 A. It was my understanding on January 20th, for the  
5 first time I heard about the allegations, of a consensual  
6 relationship, which I didn't understand.

7 Q. You are referring to Ms. Rickenbacker?

8 A. I believe so.

9 Q. Who gave you this information that it was a  
10 consensual relationship?

11 MS. FLYNN: Objection.

12 THE COURT: Overruled.

13 A. I heard it from Nancy Kugler and Carol Manderino  
14 during a meeting.

15 Q. So Nancy Kugler and Carol Manderino were the ones who  
16 told you it was a consensual relationship.

17 Is that what your testimony is?

18 MS. FLYNN: Objection.

19 THE COURT: Overruled.

20 A. That's where I first heard about the allegations of  
21 consensual relationship.

22 Q. Now, when you first heard about Ms. Kennedy's  
23 allegations there was no question in your mind about  
24 whether this was consensual or not.

25 Was there?

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1 A. There were allegations of mis -- of inappropriate  
2 touching during an exam.

3 Q. And because of those allegations involving  
4 Ms. Kennedy, you decided to speak with Mr. Feinberg.

5 Correct?

6 A. Yes.

7 Q. And you spoke to Mr. Feinberg for five to ten minutes  
8 regarding Ms. Kennedy's allegations.

9 Correct?

10 A. I had a conversation with him.

11 Q. And after you heard Mr. Feinberg tell you what he  
12 told you, did you form any opinion as to whether or not  
13 Mr. Feinberg was telling the truth?

14 A. I never formed an opinion either way.

15 Q. So you asked Mr. Feinberg what happened.

16 Correct?

17 A. No.

18 I asked him if the allegations that were made  
19 were true, and he denied it.

20 Q. And even when that meeting ended, you were still open  
21 to the possibility that Mr. Feinberg had, in fact,  
22 improperly touched Linda Kennedy.

23 Correct?

24 A. Sir, I always had to be neutral. I'm a medical  
25 director of a medical unit.

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1 I have to consider the inmates and the patients  
2 and I have to consider my staff.

3 Q. Were you still open to the possibility, even after  
4 Mr. Feinberg had made that denial?

5 A. Yes, sir.

6 I was open to the possibility.

7 Q. So you were still open to the possibility that there  
8 had, in fact, been improper touching going on.

9 Correct?

10 A. That one circumstance, yes.

11 I was open to it, which is why I acted on it.

12 Q. And after you learned about Ms. Rickenbacker's  
13 allegations, you spoke to Mr. Feinberg again.

14 Is that correct?

15 A. Correct.

16 Q. That second conversation was just two days later,  
17 January 20, 2006.

18 Correct?

19 A. Correct.

20 Q. Mr. Feinberg denied these allegations too.

21 Correct?

22 A. Correct.

23 Q. But even after this second conversation with  
24 Mr. Feinberg, you still weren't sure what had happened.

25 Correct?

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1 A. Again, everything that I knew of was hearsay.

2 So I spoke to Mr. Feinberg. He denied it. And  
3 I told him he couldn't see those patients.

4 Q. My question is, sir, did you form any opinion after  
5 those two conversations with Mr. Feinberg as to whether or  
6 not he was telling the truth?

7 A. I never formed an opinion, one way or another.

8 I don't know what the truth was in this case.

9 Q. At some point you spoke to Mr. Feinberg after his  
10 arrest.

11 Is that correct?

12 A. Very briefly, either the day after his arrest or the  
13 day of, about supplies in his desk that he needed and he  
14 needed his keys from his jacket so his wife could pick up  
15 his car.

16 That was the only conversation I had.

17 Q. Did Mr. Feinberg make any type of denial at all  
18 during that conversation with you?

19 A. I don't --

20 MS. FLYNN: Objection.

21 THE COURT: Overruled.

22 A. I don't recall.

23 Q. Did Mr. Feinberg protest his innocence during that  
24 conversation with you?

25 MS. FLYNN: Objection.

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1 THE COURT: Sustained.

2 BY MR. NORINSBERG:

3 Q. Now, there were approximately seven team leaders in  
4 the jail medical unit in 2005.

5 Is that correct?

6 A. Yes.

7 THE COURT: 17 what?

8 MR. NORINSBERG: The number seven, team leaders.

9 THE COURT: Team leaders?

10 MR. NORINSBERG: Yes.

11 A. That's correct.

12 THE COURT: What's a team leader?

13 THE WITNESS: Sir, it's something that I created  
14 in the jail medical unit when I got there, or shortly  
15 after I had gotten there to improve communication among  
16 the different units within the medical unit.

17 For example, we had a pharmacy, a nursing staff,  
18 a practitioner's staff, a mental health staff.

19 THE COURT: They were employees of --

20 THE WITNESS: They were all employees.

21 But it was a way for us to talk about problems  
22 where one problem might affect another part of the unit.

23 THE COURT: I just want to know what they are.

24 They are not inmates?

25 THE WITNESS: No.



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1                   They are supervisors, for the most part.

2                   THE COURT: All right.

3                   THE WITNESS: It was just a way of  
4 communicating.

5 BY MR. NORINSBERG:

6 Q. Now, the team leaders in the jail medical unit would  
7 get together from time to time and talk about operations  
8 within the jail medical unit.

9                   Correct?

10 A. Correct.

11 Q. And as the medical director, you were concerned that  
12 something like this had happened in your unit.

13                   Correct?

14 A. Something like what, sir?

15 Q. The fact that there had been allegations made of  
16 sexual abuse and that Mr. Feinberg had, in fact, been  
17 arrested.

18                   You were concerned about this, correct?

19 A. I was concerned.

20 Q. And you wanted to make sure that something like this  
21 would never happen again in the jail medical unit.

22                   Correct?

23 MS. FLYNN: Objection.

24 THE COURT: Sustained.

25

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1 BY MR. NORINSBERG:

2 Q. After Mr. Feinberg was arrested, did you ever discuss  
3 this issue during any of the team meetings that you held  
4 with the leaders in the jail medical unit?

5 MS. FLYNN: Objection, your Honor.

6 THE COURT: Overruled.

7 A. I don't recall.

8 Q. Was the subject of Gary Feinberg ever addressed in  
9 any team leader meetings?

10 MS. FLYNN: Objection.

11 THE COURT: Overruled.

12 A. I don't recall, sir.

13 Q. You are not aware of any, correct, sir?

14 A. I just don't recall.

15 Q. Referring to your deposition, page 35, line 21:

16 Question: Was the subject of Gary Feinberg ever  
17 addressed during any team leader meetings?

18 Answer: Not that I'm aware of.

19 Do you recall giving that testimony, sir?

20 MS. FLYNN: Objection.

21 THE COURT: Overruled.

22 I'll allow it.

23 A. Not that I'm aware of.

24 Q. Now, you testified earlier that you had taken  
25 precautions once you learned about the information

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1 regarding Ms. Rickenbacker.

2 Is that correct?

3 A. I spoke with Gary Feinberg.

4 Q. In --

5 A. And I told him not to see Ms. Rickenbacker anymore.

6 Q. But, in fact, he continued seeing Ms. Rickenbacker  
7 after that alleged order that you issued.

8 True?

9 A. I don't know that to be true.

10 Q. I'd like to show you a document.

11 THE COURT: A document with what number for  
12 identification?

13 MR. NORINSBERG: It would be 56, your Honor.

14 (Whereupon, there was a pause in the  
15 proceedings.)

16

17 BY MR. NORINSBERG:

18 Q. Do you recognize this document, Dr. Geraci?

19 A. It's a progress note.

20 Q. Can you tell the members of the jury what's the date  
21 of this progress note?

22 A. It says January 29, 2006.

23 Q. And it pertains to Lowrita Rickenbacker.

24 Correct?

25 A. Correct.

**Geraci - Direct/Norinsberg**

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1 Q. You learned about Ms. Rickenbacker's allegations on  
2 January 20th, 2006.

3 Correct?

4 A. Correct.

5 Q. You spoke to Gary Feinberg on January 20th relating  
6 to Lowrita Rickenbacker.

7 Correct?

8 A. Correct.

9 Q. You ordered him on January 20th to never see  
10 Ms. Rickenbacker again.

11 Correct?

12 A. Correct.

13 Q. And, yet, just nine days later here he is treating  
14 Ms. Rickenbacker.

15 Correct?

16 A. He made a notation in the chart.

17 I don't know if this means he saw the patient or  
18 not.

19 Q. You mean he just made a notation in the chart without  
20 examining the patient?

21 MS. FLYNN: Objection.

22 THE COURT: Overruled.

23 A. There are times we make notations in the chart  
24 without examining a patient.

25 MR. NORINSBERG: I offer Plaintiff Exhibit 56

**Geraci - Direct/Norinsberg**

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1 into evidence.

2 THE COURT: Any objection?

3 MS. FLYNN: No, your Honor.

4 THE COURT: Plaintiff Exhibit 56 in evidence.

5 (Whereupon, Plaintiff Exhibit 56 was received in  
6 evidence, as of this date.)

7 BY MR. NORINSBERG:

8 Q. Can you please read that record.

9 A. Patient having significant weight gain since arriving  
10 at the Suffolk County Correctional Facility on 6/2 of  
11 2005.

12 Patient denies significant amount of --

13 THE COURT: Wait a minute, now.

14 I lost you in the first line.

15 THE WITNESS: I'm sorry, sir.

16 THE COURT: Slow down. Read slowly.

17 Let's start all over again.

18 THE WITNESS: Yes.

19 A. Patient having significant weight gain since arriving  
20 at Suffolk County Correctional Facility 6/2, 2005.

21 Patient denies significant amount of eating,  
22 although it is unlikely. Will check thyroid function test  
23 for underactive thyroid.

24 Q. And is there a notation as to who made this entry?

25 A. Gary Feinberg.

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1 Q. Is there any question in your mind that Gary Feinberg  
2 made this entry?

3 MS. FLYNN: Objection.

4 THE COURT: Overruled.

5 A. The only question I have is whether he actually saw  
6 the patient.

7 Q. The fact is, Dr. Geraci, you never really issued that  
8 order to stop him from seeing Lowrita Rickenbacker.

9 Isn't that true?

10 MS. FLYNN: Objection.

11 THE COURT: Overruled.

12 A. I did tell him not to see the patient.

13 Q. And if you did tell him that, he disobeyed your  
14 order, didn't he?

15 A. Not --

16 MS. FLYNN: Objection.

17 THE COURT: Overruled.

18 A. Not necessarily.

19 Q. Did you ever ask Mr. Feinberg whether he was still  
20 seeing Lowrita Rickenbacker as a patient?

21 A. I don't recall.

22 Q. Did you ever ask Mr. Feinberg whether he was still  
23 seeing Linda Kennedy as a patient?

24 A. I don't recall.

25 Q. Now, you, yourself, had a supervisor at the

**Geraci - Direct/Norinsberg**

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1 Suffolk County health department in 2005.

2 Is that correct?

3 A. Correct.

4 Q. You had a supervisor named Dr. Shaheda,  
5 S-H-A-H-E-D-A?

6 THE COURT: S-H what?

7 MR. NORINSBERG: A-H-E-D-A.

8 BY MR. NORINSBERG:

9 Q. Iftikhar, I-F-T-I-K-H-A-R.

10 Is that correct, sir?

11 A. Yes.

12 That was my supervisor.

13 Q. And when you first learned about Ms. Rickenbacker's  
14 allegations, you spoke to Dr. Iftikhar on January 20th.

15 Correct?

16 A. On or about, yes.

17 Q. And you told Dr. Iftikhar what you knew at the  
18 moment.

19 Correct?

20 A. About everything I knew at that moment.

21 Yes.

22 Q. And you told -- Dr. Iftikhar told you to keep her  
23 posted on the developments.

24 Is that correct?

25 A. She wanted me to keep her informed about the

**Geraci - Direct/Norinsberg**

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1 grievance, if there was one.

2 Q. Did she ask you to keep her informed?

3 A. We talked about keeping communication open.

4 Yes.

5 Q. From the time you first spoke to Dr. Iftikhar on  
6 January 20th, until the time when Gary Feinberg was  
7 arrested on February 8, did you ever speak to Dr. Iftikhar  
8 again?

9 A. I don't recall.

10 Q. Did you ever prepare any type of memorandum or a  
11 report for Dr. Iftikhar relating to Gary Feinberg?

12 A. No.

13 Q. Did you ever have a meeting with your supervisor  
14 relating to the subject of Gary Feinberg?

15 A. After he was arrested or before?

16 Q. At any time.

17 A. After he was arrested.

18 Q. You had a meeting with Dr. Iftikhar relating to  
19 Gary Feinberg after he was arrested?

20 A. It was -- I believe it was sometime in 2006.

21 Q. Referring to your deposition, page 127, line 9:

22 Question: Did you have any meeting with  
23 Dr. Iftikhar relating to Gary Feinberg?

24 Answer: I can't recall.

25 Do you recall being asked that question and



**Geraci - Direct/Norinsberg**

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1 giving that answer in your deposition?

2 A. Yes, I do.

3 Q. And that deposition was less than one month ago.

4 Correct, sir?

5 A. Correct.

6 Q. So at your deposition you couldn't recall having any  
7 meeting with Dr. Iftikhar.

8 Correct?

9 A. Correct.

10 Q. But now, three and a half weeks later, you remember a  
11 meeting that you had.

12 Is that correct?

13 A. Vaguely, yes.

14 Q. Where did that meeting take place?

15 A. I believe it was in Riverhead jail.

16 Q. What month of the year did that meeting take place?

17 A. Sometime after Gary was arrested.

18 Q. Can you narrow it down any further than sometime  
19 after February 8, 2006?

20 A. I believe it was the first couple of months after  
21 that.

22 Q. Did Dr. Iftikhar ever ask you, as the medical  
23 director, how this could have happened in the jail medical  
24 unit?

25 A. I don't recall.

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1 Q. Now, apart from Dr. Iftikhar, did any other  
2 supervisors at the health department ever ask you how it  
3 was possible that this happened at the jail medical unit?

4 A. I don't recall, sir.

5 Q. Did any of the supervisors that you had at the health  
6 department ever ask you for a report regarding the  
7 allegations against Gary Feinberg?

8 A. Not a report.

9 No.

10 Q. Did anyone ever ask you for a written summary or any  
11 type of memorandum relating to what had happened at the  
12 jail medical unit with Gary Feinberg?

13 A. I had spoken to people, but, no.

14 No written summary.

15 Q. So you never prepared any type of report or  
16 memorandum for anybody relating to Gary Feinberg's  
17 allegations.

18 Correct?

19 A. Correct.

20 Q. Now, you occasionally had contact with the warden in  
21 the jail.

22 Correct?

23 A. Well, he was a new warden.

24 The administration turned over January 1, 2006,  
25 and eventually I got to know the new warden.

**Geraci - Direct/Norinsberg**

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1 Q. You would have contact with him occasionally.

2 Correct?

3 A. As time went on, correct.

4 Q. Did the warden ever speak to you regarding the  
5 allegations against Gary Feinberg?

6 A. I don't recall.

7 Q. Did the warden ever ask you any questions about what  
8 had happened with Gary Feinberg?

9 A. I don't recall, sir.

10 Q. Did the warden ever ask you for an explanation of how  
11 this could have happened in your jail medical unit?

12 A. I don't recall.

13 Q. Did you ever prepare any type of report or memorandum  
14 for the warden?

15 A. No.

16 Q. You testified earlier that there were two doctors  
17 that worked underneath you in the jail medical unit at  
18 that time.

19 Correct?

20 A. They worked the local hospital, and while they were  
21 at the jail, I supervised them.

22 Correct.

23 Q. And you identified two of them.

24 One was Dr. Roginsky?

25 THE COURT: How do you spell that?

**Geraci - Direct/Norinsberg**

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1 MR. NORINSBERG: R-O-G-I-N-S-K-Y.

2 A. I believe so.

3 Q. And you testified earlier that he was the one male  
4 doctor at the jail medical unit besides yourself.

5 Correct?

6 A. Correct.

7 Q. And he shared an office with Gary Feinberg, didn't  
8 he?

9 A. Yes, he did.

10 Q. Did you ever ask Dr. Roginsky what he knew about the  
11 Feinberg allegations?

12 A. Long after the arrest.

13 Q. How much longer after the arrest?

14 A. I don't recall, exactly.

15 Q. Let's go back to the time period of January 18th  
16 through January 20th of 2006.

17 At that moment in time you knew, now, there were  
18 two separate inmates who had made allegations concerning  
19 Gary Feinberg.

20 Correct?

21 A. Two separate allegations of different nature.

22 Yes.

23 Q. Did you at that point in time speak to Dr. Roginsky  
24 and ask him whether he knew anything about what was going  
25 on?

**Geraci - Direct/Norinsberg**

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1 A. No, I didn't.

2 Q. Well, he shared the same office with Mr. Feinberg.

3 Correct?

4 A. Correct.

5 Q. So wouldn't he be in the best position to know what  
6 was going on at that time?

7 MS. FLYNN: Objection.

8 Judge, may we have a sidebar?

9 THE COURT: All right.

10 Come up.

11 (Continued on next page.)

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**Geraci - Direct/Norinsberg**

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1 (Sidebar.)

2 MS. FLYNN: We are just getting completely far  
3 afield of the case here at this point, Judge.

4 This entire case is getting consumed with all  
5 these post-incident actions by Dr. Geraci and the complete  
6 focus of the case is gone.

7 He's trying to build a case to make the jury  
8 think that Dr. Geraci acted, I hate the say the word,  
9 negligently, and that's not the focus of the case.

10 THE COURT: I think this is all relevant in  
11 connection with my decision to admit the post-incident  
12 events with Linda Kennedy.

13 This is all relatively near the incident. It  
14 all has to do with custom, policy, failure to train, all  
15 the things that Monell stands for in my opinion.

16 So I'm overruling your objection.

17 MS. FLYNN: Thank you.

18 (Sidebar concluded.)

19 (Continued on next page.)

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23

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**Geraci - Direct/Norinsberg**

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1 (In open court.)

2 BY MR. NORINSBERG:

3 Q. Why didn't you ask Dr. Roginsky what he knew, if  
4 anything, about these allegations?

5 A. I don't know.

6 Q. You were his direct supervisor, weren't you?

7 A. Yes, I was.

8 Q. Did it occur to you at any time to speak with  
9 Dr. Roginsky about what was going on with Gary Feinberg?

10 A. I don't recall.

11 Q. There's a supervisor in the jail medical unit named  
12 Mike Vallone.

13 Is that correct?

14 THE COURT: I'm sorry.

15 I didn't hear your question.

16 BY MR. NORINSBERG:

17 Q. There's a supervisor in the jail medical unit named  
18 Mike Vallone, V-A-L-L-O-N-E.

19 Correct?

20 A. He's a nurse supervisor.

21 Q. And he was also one of the team leaders in the jail  
22 medical unit.

23 Correct?

24 A. Correct.

25 Q. Did you ever ask Mr. Vallone about the allegations

**Geraci - Direct/Norinsberg**

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1 against Mr. Feinberg?

2 A. I don't recall.

3 Q. There was another supervisor in the jail medical unit  
4 named David White.

5 Correct?

6 THE COURT: David?

7 MR. NORINSBERG: Yes, White, W-H-I-T-E.

8 A. Correct.

9 Q. And Mr. White is also a team leader in the jail  
10 medical unit.

11 Correct?

12 A. Correct.

13 Q. Did you ever ask Mr. White about what he knew about  
14 the allegations against Gary Feinberg?

15 A. I don't recall.

16 Q. Now, as you sit here today, you are aware of the fact  
17 that there was an ongoing investigation by internal  
18 affairs into Gary Feinberg in January of 2006.

19 Correct?

20 A. As I sit here today?

21 Q. Yes.

22 A. That's my understanding.

23 Q. At the time, however, you were not aware of the fact  
24 that there was any type of internal affairs investigation  
25 going on.



**Geraci - Direct/Norinsberg**

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1 Correct?

2 A. I wasn't aware of what type of investigation was  
3 going on.

4 Q. You were not aware of the fact that internal affairs  
5 was conducting an investigation.

6 Yes or no?

7 A. I wasn't aware of who was conducting an  
8 investigation.

9 Q. Referring to your deposition, page 79, line 18:

10 Question: Were you aware of the fact that as of  
11 January 3, 2006, internal affairs was conducting an  
12 investigation into Mr. Feinberg?

13 Answer: No.

14 Do you recall giving that testimony, sir?

15 A. Yes, I do.

16 Q. So at your deposition you were not aware of the fact  
17 that internal affairs was conducting an investigation.

18 Is that correct?

19 A. At that time, correct.

20 Q. Were you ever interviewed by internal affairs as part  
21 of their investigation?

22 A. I don't recall.

23 Q. Did anyone from internal affairs attempt to speak to  
24 you regarding Gary Feinberg?

25 MS. FLYNN: Objection.

**Geraci - Direct/Norinsberg**

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1 THE COURT: Overruled.

2 A. Sir, I don't recall.

3 Q. You testified earlier that it was your impression  
4 that at least one of the inmates was involved in a  
5 consensual relationship.

6 Is that correct?

7 A. Based on hearsay, it was believed she had stated that  
8 she was involved in a consensual relationship.

9 Q. Would you agree, Dr. Geraci, that it's never  
10 permissible for a staff member to have a sexual  
11 relationship with an inmate?

12 MS. FLYNN: Objection.

13 THE COURT: Overruled.

14 A. It's unethical, and it would never be permissible.

15 Q. And that would include any type of sexual contact.  
16 Correct?

17 A. Correct.

18 Q. So you would agree, Dr. Geraci, that there's no such  
19 thing as a consensual relationship with a patient.

20 A. In my mind, no.

21 Q. You agree, correct?

22 A. Yes.

23 Q. Now, after Mr. Feinberg was arrested you heard of  
24 another inmate making allegations.

25 Correct?

**Geraci - Direct/Norinsberg**

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1 MS. FLYNN: Objection.

2 THE COURT: Overruled.

3 A. The day after he was arrested, I heard about one  
4 other case.

5 Q. But you have no memory of what that inmate's  
6 allegations were.

7 Correct?

8 A. I don't believe I was told.

9 Q. Do you recall any of the allegations made by that  
10 other inmate?

11 A. I don't believe I was told.

12 So I can't recall it.

13 Q. And now, after everything you know up to this point,  
14 doctor, as you sit here today, you still don't have any  
15 opinion at all about whether Mr. Feinberg did these  
16 things.

17 Correct?

18 MS. FLYNN: Objection.

19 THE COURT: Sustained.

20 BY MR. NORINSBERG:

21 Q. Did you ever learn of any other inmates who had come  
22 forward and made complaints besides the one right after  
23 Gary Feinberg's arrest?

24 MS. FLYNN: Objection.

25 THE COURT: Sustained.

**Geraci - Direct/Norinsberg**

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1 BY MR. NORINSBERG:

2 Q. Did you have an opportunity, before you came here  
3 today, to go back through your deposition, doctor?

4 MS. FLYNN: Objection.

5 THE COURT: Sustained.

6 He was asked that yesterday.

7 BY MR. NORINSBERG:

8 Q. Doctor, who is Linda Mermelstein?

9 A. Right now she's the acting commissioner.

10 She's the division of compliance which has to do  
11 with credentialing and risk management. She's the  
12 director.

13 THE COURT: She's the director of the division  
14 of compliance?

15 THE WITNESS: Yes, sir.

16 THE COURT: Of what municipality?

17 THE WITNESS: Suffolk County Department of  
18 Health.

19 BY MR. NORINSBERG:

20 Q. And risk management sometimes gets involved with  
21 litigation.

22 Correct?

23 MS. FLYNN: Objection.

24 THE COURT: Overruled.

25 A. Correct.

**Geraci - Direct/Norinsberg**

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1 Q. And Ms. Mermelstein, Dr. Mermelstein called you to  
2 talk about the Feinberg case.

3 Correct?

4 A. She didn't call me.

5 I called her.

6 Q. Referring to your deposition, page 130, line 10:

7 Question: You weren't sure whether you  
8 initiated or Dr. Mermelstein initiated. Correct?

9 Answer: Correct.

10 A. Okay.

11 Correct.

12 Q. Do you recall giving that testimony?

13 A. Yes, I do.

14 Q. As you sit here today, do you know whether  
15 Dr. Mermelstein initiated that conversation or you?

16 A. I don't know why I would have initiated, but I'm not  
17 sure.

18 Either way.

19 Q. And the purpose of that conversation was to discuss  
20 potential legal ramifications of the Feinberg case.

21 Correct?

22 MS. FLYNN: Objection.

23 THE COURT: Overruled.

24 Just yes or no.

25 A. Not specifically, no.

**Geraci - Cross/Flynn**

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1 MR. NORINSBERG: Nothing further.

2 THE COURT: Cross-examination.

3 CROSS-EXAMINATION

4 BY MS. FLYNN:

5 Q. Good morning, doctor.

6 A. Good morning.

7 Q. You and I have met before, right?

8 A. Yes, ma'am.

9 Q. Just a few preliminary things from the other day.

10 Were you ever personally served with a subpoena  
11 in this case?

12 A. Not personally, ma'am.

13 Q. Did Mr. Norinsberg ever pay you a subpoena fee to  
14 appear here?

15 A. No, ma'am.

16 MR. NORINSBERG: Objection.

17 Counsel agreed to accept service on behalf of  
18 the doctor.

19 I don't understand that question at all.

20 MS. FLYNN: I did agree, your Honor --

21 THE COURT: Excuse me.

22 Is that an objection?

23 MR. NORINSBERG: It's an objection, your Honor.

24 THE COURT: Overruled.

25 MS. FLYNN: Thank you.

**Geraci - Cross/Flynn**

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1 BY MS. FLYNN:

2 Q. And you have been advised by my office when to be  
3 available to testify.

4 Correct?

5 A. Correct.

6 Q. And, as a matter of fact, you have been available  
7 since last week, haven't you?

8 A. Yes, ma'am.

9 Q. And you were advised that you needed to be available  
10 for when Mr. Norinsberg wanted you to testify.

11 Correct?

12 A. Correct.

13 Q. I'm going to take Judge Spatt's suggestion from the  
14 other day and start off by going over with you some of the  
15 deposition questions that Mr. Norinsberg questioned you  
16 about the other day.

17 Starting at page 19, line 24.

18 By the way, Mr. Norinsberg was the attorney that  
19 was at the deposition and he was the attorney questioning  
20 you.

21 Correct?

22 A. Yes, ma'am.

23 Q. And he asked you yesterday or -- sorry -- Tuesday  
24 about a question how long it took you to get from your  
25 office to Mr. Feinberg's office.

**Geraci - Cross/Flynn**

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1 Do you remember being asked that question by  
2 Mr. Norinsberg?

3 A. Yes, ma'am.

4 Q. And at trial the answer that you gave was seconds.  
5 Correct?

6 A. Seconds.

7 Q. And then Mr. Norinsberg asked you this question, page  
8 19, line 24, and he's asking you these questions:

9 How long would it take you to walk from your  
10 office to Mr. Feinberg's examination room?

11 Answer: A second.

12 And do you recall Mr. Norinsberg then  
13 immediately asking you this question:

14 So Mr. Feinberg's examination room was located  
15 seconds away from where your office was, correct?

16 Answer: Yes.

17 Do you remember being asked those questions at  
18 your deposition?

19 A. Yes, I do.

20 Q. And Mr. Norinsberg on Tuesday also asked you  
21 questions, going to page 85, line 10, also asked you  
22 questions about whether you had found out any details  
23 regarding Ms. Rickenbacker's allegations when you spoke to  
24 Carol Manderino.

25 Do you remember him asking you those questions?



**Geraci - Cross/Flynn**

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1 A. Yes, ma'am.

2 Q. And he read for you this question and answer starting  
3 at line 10:

4 Question: Did you ever learn any details  
5 regarding --

6 THE COURT: You have to slow down when you read.

7 MS. FLYNN: I'm sorry.

8 BY MS. FLYNN:

9 Q. Question: Did you ever learn any details regarding  
10 Ms. Rickenbacker's allegations?

11 Answer: No.

12 But then did Mr. Norinsberg ask you these  
13 questions:

14 Question: Did Carol Manderino ever tell you  
15 anything about the nature of those allegations?

16 Answer: Specifically details? No.

17 Question: Did Ms. Manderino ever leave you any  
18 information about the allegations being made by  
19 Ms. Rickenbacker?

20 Answer: On January 20th, in Rick's office, she  
21 made some comments and I don't recall exactly what the  
22 comments were.

23 Question: In sum and substance, what did she  
24 tell you about Ms. Rickenbacker's allegations?

25 Answer: They were allegations of sexual nature,

**Geraci - Cross/Flynn**

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1 misconduct again against Gary Feinberg, and perhaps  
2 inappropriate relationships, which I didn't understand.

3 Do you remember being asked those questions and  
4 giving those answers?

5 A. Yes, ma'am.

6 Q. And just one more, page 74, line 9, Mr. Norinsberg  
7 read to you from your deposition this question regarding  
8 who would be responsible for doing an investigation  
9 regarding Ms. Rickenbacker's allegations and he asked you  
10 the question:

11 Who in your mind -- I am sorry -- line 14:

12 Question: To your knowledge who would be  
13 responsible for actually investigating allegations similar  
14 to those made by Ms. Rickenbacker and Ms. Kennedy?

15 And you answered at that point, I'm not sure.

16 Do you remember being asked this question just  
17 prior to that question, again page 74, line 4:

18 Question: What was the reason you didn't  
19 interview Ms. Rickenbacker?

20 Answer: Because I'm not an investigator. And I  
21 believed it was up to the correctional facility to do  
22 that.

23 Did you give that answer to that question at  
24 your deposition?

25 A. Yes, ma'am.

**Geraci - Cross/Flynn**

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1 Q. Dr. Geraci, do you know Rochelle Ramos?

2 A. No, ma'am.

3 Q. Have you ever met her?

4 A. No, ma'am.

5 Q. And if she had been here in court on Tuesday or  
6 today --

7 MR. NORINSBERG: Objection.

8 THE COURT: Excuse me.

9 Please don't interrupt the question, no matter  
10 how egregious you may think it will be. That's my  
11 direction.

12 MR. NORINSBERG: Yes, sir.

13 THE COURT: Wait until the question is over and  
14 then you make your objection. Don't interrupt.

15 Go ahead.

16 BY MS. FLYNN:

17 Q. If she was in court today or had she been in court on  
18 Tuesday, would you have recognized her?

19 MR. NORINSBERG: Objection.

20 THE COURT: Overruled.

21 A. No, ma'am.

22 Q. Prior to your coming in today to testify, did you  
23 review, briefly, Rochelle Ramos' medical records from the  
24 Suffolk County Correctional Facility?

25 A. Briefly.

**Geraci - Cross/Flynn**

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1 Q. It's Defense Exhibit B.

2 THE COURT: For identification?

3 MS. FLYNN: Yes.

4 THE COURT: Always say for identification if  
5 it's not in evidence, so we all know it's not yet in  
6 evidence.

7 And if you don't say for identification, we will  
8 all know it's in evidence.

9 MS. FLYNN: Yes, Judge.

10 THE COURT: That's one of my peculiar  
11 procedures.

12 Also, you will notice that I slow down everybody  
13 from reading fast. Now I'm going to tell you why  
14 everybody reads faster than they speak.

15 Everybody reads faster than they speak. People  
16 who speak in very well-modulated tones, when they start  
17 reading, they are off to the races. And why is that?  
18 Well this is my theory. I may write a book about this.

19 My theory is that we learn how to read, well I  
20 did, anyway, in the first grade, in my case it was called  
21 1 A. And if you want a good mark, you have to read fast.

22 How, did, the, chicken, cross, the, street.  
23 That's not good. Howdidthechickencrossthestreet, fast.  
24 Then you get an A.

25 Well, we take that with us all the way through

**Geraci - Cross/Flynn**

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1     our lives, at least when I went to school. So that when  
2     we read, we read very quickly, and you will see every  
3     person does that with one exception, me.

4             All right. Go ahead.

5             (Continued on next page.)

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Geraci - Cross/Flynn

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1 MS. FLYNN: Thank you, Judge.

2 BY MS. FLYNN:

3 Q. I would ask you to look at defendant's exhibit B  
4 and --

5 THE COURT: For identification?

6 MS. FLYNN: I'm sorry?

7 THE COURT: For identification?

8 MS. FLYNN: For identification.

9 BY MS. FLYNN:

10 Q. And ask you if you recognize what these documents  
11 are?

12 A. These are medical records.

13 THE COURT: I can't hear you.

14 THE WITNESS: These are the medical records of  
15 Rochelle Ramos.

16 BY MS. FLYNN:

17 Q. These are records from the Suffolk County  
18 correctional facility?

19 A. Yes, ma'am.

20 MS. FLYNN: Your Honor, I would like to move  
21 defendant's exhibit B into evidence.

22 THE COURT: Any objection?

23 MR. NORINSBERG: Objection.

24 THE COURT: On what ground?

25 MR. NORINSBERG: There are multiple issues or

**Geraci - Cross/Flynn**

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1 entries that I think have nothing to do with the case.

2 THE COURT: Can I see the records?

3 There's a number of records here. I'll have to  
4 take some time to read it.

5 MS. FLYNN: My intention is to just ask him  
6 about the first couple of pages, your Honor.

7 THE COURT: Show me the first couple of pages.  
8 Show it to counsel. Just this page?

9 MS. FLYNN: Yes, your Honor.

10 THE COURT: Okay.

11 (Pause in proceedings.)

12 THE COURT: Let's go to the sidebar.

13 (Continued on next page.)

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1 (The following takes place at sidebar.)

2 THE COURT: Now, you're offering in evidence one  
3 page from defendant's exhibit B, for baker, for  
4 identification. This one page says medication?

5 MS. FLYNN: Yes.

6 THE COURT: Administration record, medication  
7 administration record.

8 What's the relevance of that?

9 MS. FLYNN: The plaintiff at her deposition  
10 testified that when she was transferred from the Nassau  
11 County correctional facility to the Suffolk County  
12 correctional facility that the people at the Suffolk  
13 County facility did not give her her medication and she  
14 was put in a cell and she got very sick because she wasn't  
15 given her medication and she was going through withdrawal.

16 I would like to put that in to show she did in  
17 fact receive her medication. What I'm trying to avoid is  
18 having the doctor come back on rebuttal if Ms. Ramos comes  
19 in and says she didn't receive her medication, she was  
20 sick.

21 THE COURT: Did she say that at her deposition?

22 MS. FLYNN: Yes.

23 MR. NORINSBERG: There's another note just a few  
24 pages later that confirms she wasn't given her  
25 medications.



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1 THE COURT: Then if you want to put that in, we  
2 will put that in too.

3 MR. NORINSBERG: This issue has nothing to do  
4 with the allegation in this case at all whether she was  
5 given medications or not.

6 THE COURT: It has to do with credibility.

7 MR. NORINSBERG: This should verify that  
8 Ms. Ramos did not receive her medication. It's in their  
9 own records and I think it's collateral.

10 THE COURT: It says that she did not receive  
11 this medication this day.

12 MS. FLYNN: Yes.

13 MR. NORINSBERG: That's the day.

14 THE COURT: Do you want to put that in on  
15 cross-examination, I'll let you do it. Meanwhile, I'm  
16 overruling your objection and allowing it in.

17 MR. NORINSBERG: That one page.

18 MS. FLYNN: I will put the sticker on it.

19 Thank you, Judge.

20 THE COURT: Okay.

21 (Continued on next page.)

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1 (The following takes place in open court.)

2 THE COURT: That's defendant's exhibit B for  
3 baker, one page. What's it called, medication?

4 THE WITNESS: Sir, this is the medication  
5 administration record.

6 THE COURT: Administration record. In evidence.  
7 (Defendant's Exhibit B in evidence.)

8 MS. FLYNN: Thank you.

9 BY MS. FLYNN:

10 Q. Doctor, does that record show that Rochelle Ramos was  
11 prescribed medications while she was at the Suffolk County  
12 correctional facility?

13 A. Yes, it does.

14 Q. And can you tell the jury what medications she was  
15 prescribed?

16 A. Seroquel.

17 THE COURT: How do you spell it?

18 THE WITNESS: S-E-R-O-Q-U-E-L.

19 A. Clonazepam, C-L-O-N-A-Z-E-P-A-M, Prilosec.

20 THE COURT: How do you spell it?

21 THE WITNESS: P-R-I-L-O-S-E-C.

22 THE COURT: And Bently.

23 THE COURT: How do you spell it? I'm not a  
24 pharmacist. How do you spell these things?

25 THE WITNESS: B-E-N-T-Y-L.

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1 MR. NORINSBERG: Your Honor, I'm sorry, I would  
2 request a sidebar for a moment.

3 THE COURT: Okay.

4 (Continued on next page.)

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1 (The following takes place at sidebar.)

2 MR. NORINSBERG: I anticipate that the next  
3 question is going to be what are these medications for. I  
4 object to that type of line of questioning.

5 There's no relevance whatsoever to this case.  
6 This doctor is a fact witness. He's not here to testify  
7 about expert stuff and what affect medications have on  
8 people.

9 If they want to use him in that capacity, they  
10 should have given an expert disclosure. He's strictly a  
11 fact witness and shouldn't be allowed to talk about these  
12 medications, what affect they could have on people.

13 I feel it's going away far afield. Ms. Flynn  
14 represented to the Court it would be introduced for  
15 credibility. This record reflects she was given  
16 medication and Ms. Ramos indicates she wasn't. We should  
17 close the door on that and not allow this to go any  
18 further.

19 THE COURT: First of all, what he's being asked  
20 doesn't make him an expert. He's a doctor. He knows what  
21 medications are. He's not being asked any opinion that  
22 would call for experts beyond the fact.

23 Secondly, I'm going to allow him to talk about  
24 what she's taking. Maybe these medications made her  
25 deranged or something. Who knows. Overruled.

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1 (The following takes place in open court.)

2 BY MS. FLYNN:

3 Q. The last medication that you mentioned, doctor,  
4 Bently?

5 A. Yes.

6 Q. What is that prescribed for?

7 A. For gastrointestinal problems like upset stomach.

8 Q. How about Prilosec?

9 A. For acid reflux.

10 Q. Now, the others that you mentioned, the first one was  
11 Seroquel?

12 A. Yes, ma'am.

13 Q. What is that prescribed for?

14 A. It's a mental health medication that's prescribed  
15 for -- it's an anti-psychotic, a typical anti-psychotic.

16 Q. What does that mean?

17 A. It's a mental health drug for psychosis.

18 Q. And according to Ms. Ramos's prescription, how many  
19 times a day was she prescribed that Seroquel?

20 A. Generally it could be a once a day drug. It was one  
21 time once daily at bedtime.

22 Q. And does that prescription chart show the days on  
23 which Ms. Ramos was given that prescription for Seroquel?

24 A. Yes, ma'am.

25 Q. What days are those?

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1 A. The order starts on the 23rd of December and the  
2 medication was administered the same day, the 23rd of  
3 December, 2005.

4 Q. And how many days after that was it also  
5 administered?

6 A. Counting the administration box that the nurses sign  
7 for, there's six days.

8 Q. Does it indicate the last day on which she was given  
9 her prescription for Seroquel?

10 A. Yes, ma'am.

11 Q. What day is that?

12 A. December 28, 2005.

13 Q. The other medication that you mentioned was  
14 Clonazepam?

15 A. Yes.

16 Q. What is that prescribed for?

17 A. It's multiple purposes, but this was prescribed by  
18 the psychiatrist so this is used for anxiety disorders.

19 Q. And when was she given that prescription?

20 A. That also started the same time and at bedtime once a  
21 night on the 23rd.

22 Q. And how many days following the 23rd was Ms. Ramos  
23 given this prescription for Clonazepam?

24 A. Also six nights, six days total.

25 Q. Thank you, doctor.

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1 Can you tell the jury please a little bit about  
2 your -- withdrawn.

3 Do you have any employment in addition to your  
4 position at the Suffolk County correctional facility?

5 A. Yes, ma'am.

6 Q. What is that?

7 A. I'm an officer with the United States Air Force, Air  
8 National Guard, and I'm a flight surgeon up in Newburgh.

9 Q. Can you tell the jury a little bit about your  
10 educational background?

11 A. Starting from when, ma'am?

12 Q. Starting from college.

13 A. I attended Nassau Community College after finishing  
14 an associates in liberal arts.

15 I went on to earn a Bachelor's Degree in life  
16 sciences at New York Institute of Technology, and on the  
17 same campus I attended the New York College of Osteopathic  
18 Medicine and earned a doctor of osteopathic medicine  
19 degree, and I went on to residency. It was one year  
20 internship, two years residency in family medicine. So  
21 I'm a family physician.

22 Q. Now back in 2005-2006, did the jail medical unit have  
23 something that was called a privacy policy?

24 THE COURT: A what?

25 MS. FLYNN: Privacy policy.

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1 A. Yes, ma'am.

2 Q. Generally what was that privacy policy?

3 A. Based on national standards the goal was in the  
4 policies we had, especially the privacy policy, was to  
5 protect the privacy of the patient whenever possible.

6 In other words, when patients are examined it  
7 would be very uncomfortable for them to have a  
8 correctional officer in the exam room with the doctor.

9 So the privacy policy was to try to respect the  
10 dignity of the patient whenever they're examined.

11 Q. So that privacy policy which was written, correct?

12 A. Yes, ma'am.

13 Q. And that directed that the inmates at the jail should  
14 be treated with dignity, correct?

15 A. Yes, ma'am.

16 Q. Back in 2005 and 2006, what were the general daily  
17 procedures in place regarding whether or not the  
18 examination room doors would be closed during an inmate's  
19 examination?

20 A. In general all exams or most of them under exception  
21 the exam would be conducted with the exam room open.

22 Q. Were there any circumstances where an exam room door  
23 would be closed?

24 A. If there was a need for privacy during a sensitive  
25 type of exam.



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1 Q. In those situations where there was a sensitive exam  
2 going on, would there always be two practitioners in the  
3 room with the inmate?

4 A. In general the standard is if you're doing a  
5 sensitive exam, you should have another person in the room  
6 with you. That's the standard.

7 Q. This procedure regarding generally not closing the  
8 doors to the exam rooms when an examination is being done,  
9 what are some of the concerns that led to this policy?

10 A. Well, there are safety issues and security issues.

11 Again, the exams that are conducted, they're not  
12 sensitive exams. When the exam rooms are open and  
13 patients who come in that are examined, most of the time  
14 we don't conduct a sensitive type of exam.

15 Q. You also mentioned in your answer that there is  
16 security concerns?

17 A. Yes.

18 Q. Can you tell the jury what those security concerns  
19 would be?

20 A. When I first got to the jail I attended a security  
21 meeting. It was a briefing and it covered the security  
22 issues that we have to watch out for in a correctional  
23 facility, things like paper clips and tongue blades and  
24 any kind of glass.

25 These are prohibited items because they could be

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1 used and made into weapons. Even a coke can, the  
2 sharpness of a coke can, if it was bent, it could be used  
3 as a razor blade.

4 So we were warned about these kind of things and  
5 from what I understood historically there had been  
6 incidents where inmates had lashed out at some of the  
7 practitioners in the room.

8 So, again, there's security issues that we have  
9 to deal with on a daily basis.

10 Q. So if a door was closed with an inmate and a  
11 practitioner behind the closed door, there would be  
12 security concerns for the practitioner's sake, correct?

13 A. Yes, ma'am.

14 Q. And there are corrections officers stationed in the  
15 medical unit?

16 A. Yes, ma'am.

17 Q. Plaintiff's counsel asked you today about Linda  
18 Kennedy's grievance.

19 Do you have any personal knowledge as to whether  
20 or not Linda Kennedy actually filed a grievance as she  
21 said she did?

22 A. No, ma'am.

23 Q. And plaintiff's attorney also asked you whether you  
24 questioned Sergeant Campo about whether he was doing an  
25 investigation regarding what you had discussed with him.

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1 In the jail setting, doctor, was it your place  
2 to ask Sergeant Campo what the corrections department was  
3 doing in terms of an investigation?

4 A. I work for the health department. I'm a medical  
5 director and I have been. I don't tell corrections  
6 officers what to do.

7 Q. And plaintiff's counsel also asked you whether or not  
8 you asked Lieutenant Nolan to conduct an investigation.

9 Again, is it your place in the Suffolk County  
10 correctional facility to direct internal security of the  
11 jail what to investigate?

12 A. No, ma'am.

13 Q. I would like to talk to you a little bit about  
14 Gary Feinberg.

15 At the jail medical unit he shared an office?

16 A. Yes, ma'am.

17 Q. And who was the person he shared the office with?

18 A. Dr. Roginsky.

19 Q. And were you friends with Gary Feinberg on a social  
20 basis outside the jail?

21 A. No, ma'am.

22 Q. And what kind of an employee did you find him to be?

23 A. He was a very good employee.

24 Q. Did you ever do an evaluation of Gary Feinberg?

25 A. I believe so, yes.

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1 Q. Generally what's your recollection of what kind of  
2 evaluation you gave him?

3 A. He had an outstanding evaluation.

4 Q. In addition to Gary Feinberg's responsibilities  
5 within the jail medical unit, was he given any other  
6 responsibilities?

7 A. One of his responsibilities in the medical unit was  
8 to represent us in writ court which is every Wednesday.

9 It's another mechanism that inmates have to  
10 complain about things that they feel they have the right  
11 to complain about.

12 And many times they would complain about  
13 something on an corrections end. If their time in the  
14 jail was too long, they would try and see if they could  
15 calculate it so maybe they're staying a day or two extra  
16 and they shouldn't be. Sometimes they would bring the  
17 medical unit to writ court.

18 THE COURT: To what court?

19 THE WITNESS: Writ of habeas corpus, sir.

20 THE COURT: W-R-I-T?

21 THE WITNESS: Yes. We call it writ court and  
22 that's a forum where they could complain about any kind of  
23 grievance they have and the justice in the writ court is a  
24 New York State Supreme Court Justice.

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1 BY MS. FLYNN:

2 Q. By the way, you mentioned a grievance.

3 The inmates were allowed to file grievances if  
4 they had complaints about how they were treated in the  
5 medical unit, correct?

6 A. They filed complaints about anything they wanted to.

7 Q. But they could also file it about what happened to  
8 them in the medical unit?

9 A. Yes, ma'am.

10 Q. Now, just to focus a little bit, Ms. Ramos's claim in  
11 this case is that she was allegedly assaulted by  
12 Gary Feinberg on December 29, 2005.

13 Prior to that date did you have any knowledge of  
14 any complaints by any inmates against Gary Feinberg?

15 A. No, ma'am.

16 Q. And prior to January 18, 2006, had you heard any  
17 allegations against Gary Feinberg specifically about a  
18 sexual nature?

19 A. No, ma'am.

20 Q. Now, as of January 18, 2006, you worked with  
21 Gary Feinberg for approximately 16 months?

22 A. Approximately.

23 Q. And during that time he was seeing female patients on  
24 a daily basis; is that right?

25 A. All the practitioners see female and male patients on

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1 a daily basis.

2 Yes, ma'am.

3 Q. So during that time Gary Feinberg saw female  
4 patients?

5 A. Yes, ma'am.

6 Q. Prior to January -- withdrawn.

7 Can you estimate how many examinations of female  
8 patients he did during that 16 months?

9 A. Hundreds.

10 Q. As a matter of fact, he was there before you got to  
11 the medical unit?

12 A. Yes, ma'am.

13 Q. Do you know when he was employed?

14 A. Sometime before 2003. I'm not sure of the exact  
15 date.

16 Q. It's fair to say before inmate Rickenbacker and  
17 inmate Kennedy's complaints came to your attention, you  
18 had not heard of any other inmates making any other  
19 complaints about Gary Feinberg?

20 MR. NORINSBERG: Objection to leading.

21 THE COURT: Yes, sustained as to form. Please  
22 don't lead the witness.

23 BY MS. FLYNN:

24 Q. Before you were made aware of the complaints of  
25 inmate Rickenbacker and inmate Kennedy, had you become

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1 aware of any complaints by any inmates against  
2 Gary Feinberg?

3 A. No, ma'am.

4 Q. When you became aware of inmate Kennedy's complaint,  
5 did you know her?

6 A. No.

7 Q. And did you have any -- did you have any information  
8 regarding her credibility or lack of credibility?

9 A. No.

10 Q. You knew she was an inmate at the Suffolk County  
11 correctional facility?

12 A. Correct.

13 Q. And at that time you did know Gary Feinberg?

14 A. Yes.

15 Q. Now, according to what you were told, how many  
16 instances of conduct was Linda Kennedy complaining about?

17 A. One.

18 Q. And what were you told about inmate Rickenbacker's  
19 allegation about Mr. Feinberg?

20 A. That she was having a consensual adult relationship  
21 and I think she wanted to keep it secret.

22 Q. In terms of inmates going down to the medical unit  
23 for medical treatment, are they permitted to refuse  
24 medical treatment?

25 A. Yes, ma'am.

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1 Q. And is there a written policy about that?

2 A. We have a refusal form, but there's no written  
3 policy. It's just their right.

4 Q. And it's their right to refuse treatment, correct?

5 A. Yes, ma'am.

6 Q. Would it be feasible to force inmates to come down to  
7 the medical unit for treatment?

8 A. We're not allowed to force inmates to do stuff like  
9 that.

10 Q. You were asked by plaintiff's attorney why you didn't  
11 suspend Gary Feinberg when you found out about these two  
12 allegations.

13 Can you explain to the jury why you did not do  
14 that?

15 A. Well, again, there were two separate allegations of a  
16 separate kind of bases.

17 But, first of all, I don't have the authority to  
18 suspend somebody directly.

19 And, secondly, I didn't think it was warranted  
20 at that point.

21 Q. Plaintiff's counsel also asked you about why you  
22 didn't go out when you found out about those two  
23 allegations from two inmates and basically tell everybody  
24 in the medical unit about it.

25 Why didn't you do that?



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1 MR. NORINSBERG: Objection.

2 THE COURT: Sustained.

3 BY MS. FLYNN:

4 Q. Did you, after you found out about those two  
5 allegations by two inmates against Gary Feinberg, did you  
6 go out and tell everybody in the medical unit about it?

7 MR. NORINSBERG: Objection.

8 THE COURT: Overruled.

9 A. No.

10 Q. Why not?

11 A. Well, again, they were allegations and Gary Feinberg  
12 was an outstanding clinician.

13 I had to be neutral and I had to look at every  
14 factor and I had to respect his position also.

15 Q. And you were aware back in 2005 and 2006 that inmates  
16 sometimes made false allegations against staff members,  
17 correct?

18 A. Yes, ma'am.

19 Q. Doctor, being a military man, you're familiar with  
20 the term chain of command?

21 A. Yes, ma'am.

22 Q. I would like to ask you a little bit about the chain  
23 of command in the health department.

24 You're employed by the health department?

25 A. Yes, ma'am.

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1 Q. And you are responsible for what?

2 A. I'm responsible for at this point in my career making  
3 sure that the medical needs of the inmates are met and  
4 that the providers and practitioners of those needs are  
5 providing those services appropriately.

6 Q. And you are in charge of what portion of the health  
7 department or what section?

8 A. The jail medical unit and the medical division of the  
9 jail medical unit.

10 Q. Do you have authority outside the jail medical unit?

11 A. No, ma'am.

12 Q. And who is your supervisor?

13 A. Doctor Iftikhar.

14 Q. Do you know what her title is?

15 A. She's acting division director of patient care.

16 Q. So she's the person who supervises your work?

17 A. Among other places, yes.

18 Q. By the way, this is also true back in 2005 and 2006?

19 A. Yes, ma'am.

20 Q. And back during that same time who was Dr. Iftikhar's  
21 supervisor?

22 A. It would have been the deputy commissioner of the  
23 health department.

24 Q. And do you remember back in 2005-2006 who that deputy  
25 commissioner was?

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1 A. No, ma'am. I'm sorry.

2 Q. That would be the person who would then supervise  
3 Dr. Iftikhar?

4 A. Correct.

5 Q. After that deputy commissioner was there someone  
6 above the deputy commissioner in the chain of command?

7 A. There's a chief deputy commissioner who is the senior  
8 deputy commissioner.

9 Q. And do you remember back in 2005-2006 who the chief  
10 deputy commissioner was?

11 A. No, ma'am.

12 Q. And back in 2005-2006 who was the next person in the  
13 chain of command?

14 A. The next person was the commissioner.

15 Q. And insofar as the health department is concerned no  
16 one in the health department reviews the commissioner's  
17 decisions, correct?

18 MR. NORINSBERG: Objection.

19 THE COURT: Sustained as to form.

20 MS. FLYNN: I'll rephrase it, Judge.

21 BY MS. FLYNN:

22 Q. Within the health department does anyone review the  
23 commissioner's decisions?

24 A. The commissioner has the final decision-making  
25 ability.

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1 Q. And do you set the policy for the Department of  
2 Health?

3 MR. NORINSBERG: Objection.

4 THE COURT: Overruled.

5 A. No, I don't set the policy for the Department of  
6 Health.

7 Q. Who does set the policy for the Department of Health?

8 A. The commissioner of the health department.

9 MS. FLYNN: Judge, at this time I have  
10 photographs that I would like to publish to the jury.

11 THE COURT: First show them to counsel.

12 We're going to take a 10 minute recess. Please  
13 don't discuss the case. Keep an open mind. Please recess  
14 yourselves.

15 (The jury is excused.)

16 THE COURT: Have you seen these photographs?

17 MR. NORINSBERG: I have not and I do object.

18 Ms. Flynn had exchanged photographs during  
19 discovery and I indicated to her that if these were  
20 blowups of those photographs, I would have no objection to  
21 having them introduced into evidence. But there's at  
22 least two new pictures that I'm looking at.

23 THE COURT: Which pictures do you object to?

24 MR. NORINSBERG: I object to these two pictures.  
25 I object to any picture that we were not given during

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1 discovery basically. That's my objection.

2 THE COURT: Well, I don't know what pictures you  
3 were given during discovery, so you have to tell me.

4 Do you consent to any pictures?

5 MR. NORINSBERG: Yes, I consent to any picture  
6 that was exchanged during discovery and that is listed as  
7 an exhibit and is a blowup of that.

8 MS. FLYNN: And that is Exhibit DD.

9 THE COURT: DD, dog, dog.

10 MS. FLYNN: Dog, dog.

11 THE COURT: It's a photo of what?

12 MS. FLYNN: It's the jail medical unit.

13 THE COURT: All right. What else?

14 MS. FLYNN: Exhibit --

15 THE COURT: The ones you have shown him before.

16 MS. FLYNN: Yes, Z as in zebra.

17 THE COURT: What's that?

18 MS. FLYNN: That's also the jail medical unit.

19 THE COURT: All right.

20 MS. FLYNN: And Exhibit C as in cat, C as in

21 cat.

22 THE COURT: What's that?

23 MS. FLYNN: That's the jail medical unit.

24 THE COURT: These were all shown to him?

25 MS. FLYNN: Yes, he has them.

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1 THE COURT: Any objection to those three?

2 MR. NORINSBERG: I have no objection to those  
3 three.

4 THE COURT: So that's defendant's exhibit DD,  
5 dog, dog; Z for zebra; and C for Charlie in evidence.

6 MS. FLYNN: CC.

7 THE COURT: CC?

8 MS. FLYNN: Two Cs.

9 THE COURT: Charlie, Charlie.  
10 What else do you have?

11 MS. FLYNN: Judge, these are pictures of the  
12 jail medical unit.

13 THE COURT: Excuse me. What letter.

14 MS. FLYNN: This is B as in boy, B as in boy.

15 THE COURT: What is it a photo of?

16 MS. FLYNN: It's a photo of the jail medical  
17 unit.

18 THE COURT: Okay.

19 MS. FLYNN: Which depicts the same area of the  
20 jail medical unit in the photographs given to the  
21 plaintiff's counsel.

22 The only difference is for demonstrative  
23 purposes this picture has people in them. The one that he  
24 has does not have people.

25 THE COURT: Why is that important?

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1 MS. FLYNN: Because I wanted to do this to  
2 illustrate to the jury, to demonstrate to them, where the  
3 inmates line up when they're in the jail medical unit.  
4 And that's really it, to show where the inmates are.

5 THE COURT: Are you objecting to this?

6 MR. NORINSBERG: Yes, I am.

7 THE COURT: Overruled. I'll allow it.

8 Defendant's exhibit BB, baker, baker, in evidence.

9 MS. FLYNN: And, your Honor it's the same with  
10 defendant's exhibit AA, apple, apple.

11 It's a photograph of the jail medical unit  
12 depicting an area in the jail medical unit that was  
13 depicted in the pictures given to the plaintiff's counsel  
14 except it has people.

15 THE COURT: With people in it?

16 MS. FLYNN: Right.

17 THE COURT: Okay.

18 You object to it?

19 MR. NORINSBERG: What's the purpose of the  
20 second picture with people?

21 MS. FLYNN: Also to show the movement throughout  
22 the jail medical unit, where people are stationed.

23 THE COURT: Can I see it again.

24 MS. FLYNN: Where the inmates line up.

25 THE COURT: It also shows there's plenty of

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1 guards around too, right? You didn't know that?

2 MS. FLYNN: There are corrections personnel in  
3 the picture. Yes, Judge.

4 THE COURT: Are you objecting to this?

5 MR. NORINSBERG: Yes.

6 THE COURT: Overruled. Defendant's exhibit AA,  
7 able, able, in evidence.

8 What else?

9 MS. FLYNN: That's it.

10 THE COURT: That's it. 10 minute recess.

11 (Recess taken.)

12 (After recess.)

13 THE CLERK: Jury entering.

14 (The jury is present.)

15 THE COURT: Please be seated, members of the  
16 jury.

17 You may proceed, Ms. Flynn.

18 MS. FLYNN: Thank you.

19 Your Honor, with your permission, at this point  
20 I would like to show photographs to the jury.

21 THE COURT: I'm going to tell the jury what is  
22 in evidence now.

23 In evidence are the following defendant's  
24 exhibits. They're all photographs. DD, dog dog; Z for  
25 zebra; CC, for Charlie, Charlie; BB, baker, baker, and AA,



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1 able, able.

2 (Defendant's Exhibits DD, Z, CC, BB and AA in  
3 evidence.)

4 THE COURT: You can show them.

5 MS. FLYNN: Thank you.

6 May I have Dr. Geraci come down?

7 THE COURT: Sure.

8 (The witness steps down.)

9 THE COURT: You can move around, Mr. Norinsberg,  
10 if you can't see.

11 MR. NORINSBERG: Thank you, your Honor.

12 BY MS. FLYNN:

13 Q. Dr. Geraci, I'm going to show you what's been marked  
14 as defendant's exhibit BB and ask you to take a look at  
15 it.

16 Do you recognize what's in that picture?

17 A. Yes.

18 Q. What is that in the picture generally?

19 A. This is the hallway where the patients --

20 THE COURT: Keep your voice up.

21 A. This is the hallway where the patients come off the  
22 waiting room and wait against this wall here, backs to the  
23 wall.

24 And this is the officer who is posted here at  
25 all times.

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1 And to the right here is the nurses station and  
2 down this hall is where some of the exam rooms are.

3 Q. And in this photograph it shows four inmates against  
4 the wall.

5 Is that where the inmates wait when they're  
6 waiting to be called for an exam of some kind?

7 MR. NORINSBERG: Objection.

8 THE COURT: Overruled.

9 A. Yes, ma'am.

10 Q. I'm going to ask you to look at what's been marked as  
11 defendant's exhibit A for apple, A for apple.

12 I ask you if you recognize what's in this  
13 photograph?

14 A. Okay. Different perspective.

15 This is a view from the exam rooms, stepping out  
16 of the exam rooms down the hall.

17 This area here is the nurses station and this is  
18 the wall that the patients line up against and the post  
19 for the officer.

20 And down the hall to the right here by the  
21 mirror is near my office, and that room all the way down  
22 the hall is the dental suite.

23 Q. Just to clarify, this area here, there's a woman with  
24 blonde hair, that's the nurses station?

25 A. Yes.

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1 Q. I'm going to show you what's been marked as  
2 defendant's exhibit Z for zebra.

3 I ask you if you recognize what's in this  
4 photograph?

5 A. Again, it's the same view down the hall from the exam  
6 rooms stepping out, and this is the wall where the  
7 patients line up. This is the nurses station. The dental  
8 suite is down here. And, again, right near this mirror is  
9 my office.

10 Q. In the foreground of the picture there's also a door.

11 Can you tell the jury what that door is?

12 A. This door here, this is a pharmacy and that's where  
13 we process our medication.

14 Q. And during the course of the day is the pharmacy room  
15 staffed?

16 A. Yes, ma'am.

17 Q. And that was true back in 2005-2006?

18 A. Yes.

19 Q. And generally during the day was the door to that  
20 pharmacy room opened or closed?

21 A. By law the pharmacy door has to be closed. It's  
22 regulation, DEA regulation.

23 Q. I'm going to show you, doctor, what's been marked as  
24 defendant's exhibit D for dog, D for dog.

25 I ask you if you can identify what's in this

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1 picture?

2 A. Okay.

3 This is the view from going down towards the  
4 exam rooms right where the officers are stationed. It  
5 looks like that perspective.

6 This is the nurses station. This is the  
7 pharmacy door. This is an exam room.

8 We numbered them afterwards. This is the first  
9 exam room, exam room three, and the second exam room is  
10 exam room two, and then exam room one is down the hall  
11 here.

12 This door here is the door to our nursery. We  
13 take care up to four mothers and their babies during their  
14 incarceration.

15 This is a bathroom that the females use, the  
16 staff females only.

17 Q. Now, during the time that Gary Feinberg was working  
18 in the jail medical unit, in which of these exam rooms was  
19 he working?

20 A. Gary Feinberg was working in this room here, number  
21 three.

22 Q. So the room that's designated in this photograph as  
23 number three was where Gary Feinberg saw patients?

24 A. Yes, ma'am.

25 Q. Just so the jury is clear, back when he was at the

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1 jail medical unit it was not designated room number three  
2 at that time?

3 A. It was room 87 because that was the phone extension.  
4 We transferred phone calls, so it was best to remember the  
5 extension.

6 Q. Is it fair to say, doctor, that the exam room where  
7 Gary Feinberg was, was the one closest to the nurses  
8 station?

9 A. Yes, ma'am, it is the closest to the nurses station  
10 and it's right across from the pharmacy.

11 Q. Any inmate or any practitioner who was going to  
12 either exam room two or exam room one would be walking  
13 passed Gary Feinberg's examination room?

14 A. Any traffic that went down this hall, had any  
15 business down here, has to pass that room.

16 Q. And, in addition, the corrections officers that were  
17 assigned to the jail medical unit, what would they do in  
18 the course of their day?

19 A. During the course of their day they would control the  
20 hall, go up and down to the dental area and all the way  
21 down to the nurses area and of course checking patients.

22 Q. You mentioned before there's a women's room down this  
23 hallway?

24 A. Yes.

25 Q. That is for the women staff members in the jail

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1 medical unit?

2 A. Yes. All the staff members would use that bathroom.

3 Q. For them to go to use the ladies room, they would  
4 necessarily have to walk passed Gary Feinberg's exam room?

5 A. They would actually have to cross all of the exam  
6 rooms because this bathroom is across from exam room one,  
7 so they have to pass all of the exam rooms.

8 Q. The photograph that we showed to the jury before,  
9 exhibit AA where it shows the inmates lined up, that would  
10 be male and female inmates would line up there?

11 A. We generally try to keep them separate because of  
12 gender issues.

13 And so, yeah, if we were calling females down,  
14 for example, it would just be females lined up here and we  
15 would try to keep them as separate as possible.

16 Q. When the practitioner was ready to see the inmate,  
17 would the practitioner call out the inmate's name?

18 A. Yes.

19 Often times the practitioner would either step  
20 out of the room. We have a chart in the rack here.

21 There's a rack over here. They would look at the name on  
22 the chart and then call the patient into the room.

23 Sometimes, depending if the patient is down the  
24 hallway further, we just call the patient and ask them to  
25 come this way.

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1 Q. So the inmates, before they went into the examination  
2 rooms, would know what practitioner they were going to be  
3 treated by that day?

4 A. Just by being called by that practitioner.

5 THE COURT: Do you object?

6 MR. NORINSBERG: Yes.

7 THE COURT: Sustained. Strike out the answer.  
8 Please don't lead the answer.

9 BY MS. FLYNN:

10 Q. When the practitioner would call the inmate's name,  
11 where would the inmate be standing at that point?

12 A. Anywhere along this wall or there's a waiting area  
13 further down. We would make eye contact with a patient  
14 and bring that patient into the room.

15 MS. FLYNN: Thank you, doctor. You can go back  
16 to the witness stand.

17 (The witness resumes the stand.)

18 BY MS. FLYNN:

19 Q. Dr. Geraci, does the Department of Health have a  
20 written policy that medical staff should not make false  
21 entries on an inmate's medical chart?

22 MR. NORINSBERG: Objection.

23 THE COURT: Sustained as to form.

24 BY MS. FLYNN:

25 Q. Is there any policy, written policy, in the health

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1 department that specifically prohibits medical staff from  
2 making false entries on inmates' charts?

3 A. No, ma'am.

4 Q. Is there a specific written policy in the health  
5 department that says that medical staff should not  
6 prescribe poisonous medications to the inmates?

7 MR. NORINSBERG: Objection.

8 THE COURT: Overruled.

9 A. No, ma'am.

10 Q. Is there a written policy at the jail that says that  
11 medical staff should not physically beat the inmates?

12 A. No, ma'am.

13 MS. FLYNN: I have no questions.

14 Thank you, Judge.

15 THE COURT: Redirect.

16

17 REDIRECT EXAMINATION

18 BY MR. NORINSBERG:

19 Q. Dr. Geraci, you testified earlier that you didn't  
20 have any authority to suspend Gary Feinberg; is that  
21 correct?

22 A. I couldn't suspend him, that's correct.

23 Q. You didn't feel it was warranted anyway, that's what  
24 you testified to before, correct?

25 A. At that point from what I knew it wasn't warranted.



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1 Q. So even if you had the authority to suspend him you  
2 wouldn't have done that, correct, doctor?

3 A. At that point with what I knew, no.

4 Q. At that point meaning after January 20 with two  
5 separate allegations, correct?

6 A. Two different separate allegations, correct.

7 Q. Now, you did have the authority to change or to order  
8 Gary Feinberg to not see certain patients, correct?

9 A. Correct.

10 Q. So you could have ordered him to not see female  
11 patient without supervision, correct?

12 A. There was a problem with that.

13 And the reason why I couldn't say that he  
14 couldn't see female patients is because if there was an  
15 emergency in the jail, I couldn't order him not to see  
16 female patients.

17 We have emergencies very frequently in the jail  
18 so it wouldn't be proper to order him not to see female  
19 patients.

20 Q. Could you have ordered him to not see female patients  
21 in non-emergency situations?

22 A. Yes.

23 Q. Could you have ordered him to make sure that any  
24 exams that he conducted would have to be conducted with  
25 another staff member present?

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- 1 A. I could have.
- 2 Q. But you chose not to, correct?
- 3 A. I didn't think it was warranted.
- 4 Q. You thought he was a valuable employee, correct?
- 5 A. He was a very good employee.
- 6 Q. Now, you testified earlier that you didn't want to
- 7 tell other people in the jail medical unit about these
- 8 allegations, correct?
- 9 A. I didn't. I don't believe I told anybody. I don't
- 10 know what kind of conversations I had, but I don't believe
- 11 I told anybody.
- 12 Q. But if you had ordered Gary Feinberg not to see Linda
- 13 Kennedy and not to see Lowrita Rickenbacker, how would the
- 14 rest of the staff know if Gary Feinberg was violating that
- 15 order?
- 16 A. I don't know.
- 17 Q. Now, you testified earlier that an inmate can refuse
- 18 medical treatment if they want to; is that correct?
- 19 A. That's correct.
- 20 Q. When you were standing before the jury you showed the
- 21 jury the area where the pharmacy is; is that correct?
- 22 A. Yes.
- 23 Q. The pharmacy contains the medications that are used
- 24 to treat the inmates, correct?
- 25 A. Correct.

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1 Q. One of the reasons inmates come to the jail medical  
2 unit is to get medication for whatever illnesses they  
3 have, correct?

4 A. Most medications are administered in their housing  
5 area, 90 percent of them. So some medications, very few,  
6 are administered in the medical unit.

7 Q. Would you agree that when inmates come to the jail  
8 medical unit they're seeking medical treatment of some  
9 sort?

10 A. Yes.

11 Q. They have a medical problem of some sort, correct?

12 A. They believe they have a medical problem.

13 Q. And it's the job of the jail medical unit to treat  
14 that problem, correct?

15 A. We take care of medical problems, yes.

16 Q. So if an inmate refused to come down to the jail  
17 medical unit, that inmate would not be getting the medical  
18 treatment that he or she needed, correct?

19 A. Correct.

20 Q. And, doctor, you testified earlier about some medical  
21 records relating to Rochelle Ramos; is that correct?

22 A. Yes.

23 Q. Have you ever seen the medical records from the day  
24 that Ms. Ramos was examined by Gary Feinberg?

25 A. I don't recall.

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1 Q. So from the time that you first learned about Gary  
2 Feinberg's arrest until today --

3 MS. FLYNN: Objection.

4 THE COURT: You have to let him complete the  
5 question.

6 MS. FLYNN: I'm sorry.

7 BY MR. NORINSBERG:

8 Q. Do you have any recollection of ever looking at  
9 Rochelle Ramos's record?

10 MS. FLYNN: Objection.

11 THE COURT: Overruled.

12 A. I don't recall.

13 Q. When was the first time that you looked at Rochelle  
14 Ramos's hospital records from Suffolk County?

15 A. Hospital records?

16 Q. The records you testified to before with the jury?

17 A. Okay. These aren't hospital records, but I don't  
18 recall. I don't recall ever looking at these records.

19 Q. What are the records that you testified about, sir?

20 A. These are the records of mainly the jail medical  
21 unit.

22 Actually there are some records from the  
23 hospital here but they would have been incorporated in our  
24 medical chart.

25 Q. When was the very first time that you looked at those

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1 records that are in front of you?

2 A. I don't recall ever looking at them.

3 Q. Prior to today, sir, did you ever look at them?

4 A. I don't recall.

5 Q. Would today be the very first time you've seen them?

6 A. Sir, I looked at thousands of records and I don't  
7 recall.

8 Q. I would like to show you what's been marked as  
9 plaintiff's 48.

10 THE COURT: For identification?

11 MR. NORINSBERG: For identification.

12 (Exhibit handed.)

13 (Pause in proceedings.)

14 A. Okay.

15 Q. Do you recognize the document in front of you?

16 A. This is a progress note.

17 Q. Is that progress note written by Gary Feinberg?

18 A. Yes.

19 Q. Can you tell the members of the jury the date of the  
20 progress note?

21 A. It's cut off.

22 Q. Do you see 12/29/05?

23 A. It's actually cut off, but it probably is 12/29/05.

24 Q. Does this pertain to Rochelle Ramos?

25 A. Yes, it does.

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1 Q. You see her name on the chart, correct, sir?

2 A. Yes, I do.

3 Q. Before coming here today in Court did you ever once  
4 look at that document, plaintiff's 48?

5 A. I don't recall.

6 Q. Can you please read to the members of the jury that  
7 entry in its entirety?

8 THE COURT: That document is not in evidence.  
9 He can't read it.

10 MR. NORINSBERG: I offer plaintiff's 48 into  
11 evidence.

12 THE COURT: Any objection?

13 MS. FLYNN: No objection, your Honor, and I  
14 would offer the entire medical record if counsel wants to  
15 put it into evidence at this point.

16 THE COURT: Well, that's up to him and that's up  
17 to you later on.

18 Do you want to put that one record in at this  
19 time?

20 MR. NORINSBERG: At this time I'm putting in  
21 just plaintiff's 48.

22 Any objection?

23 MS. FLYNN: No, your Honor.

24 THE COURT: Plaintiff's exhibit 48 in evidence.  
25 (Plaintiff's Exhibit 48 in evidence.)

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1 A. Okay.

2 Q. Can you please read to the jury the entry for  
3 Rochelle Ramos that was written by Gary Feinberg on  
4 December 29, 2005?

5 A. Patient returned from evaluation at Central Suffolk  
6 Hospital emergency room to rule out obstruction,  
7 diverticulitis.

8 Q. Can you please spell that for the record?

9 A. D-I-V-E-R-T-I-C-U-L-I-T-I-S.

10 Patient is no longer vomiting or in pain.

11 The ultrasound -- which I'm assuming they had  
12 done at the hospital -- was within normal limits.

13 And there's a physical exam of the abdomen noted  
14 that the bowel sounds were positive, meaning the bowel is  
15 moving. No rebound tenderness, no masses.

16 Patient was afebrile, no fever, no costal  
17 vertebral angle tenderness, which would be the sides here,  
18 both sides.

19 Q. The sides where?

20 A. On the flank.

21 Q. How would the physician's assistant make that  
22 determination?

23 MS. FLYNN: Objection.

24 THE COURT: Overruled.

25 A. If it's talking about tenderness, you would palpate

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1 both areas here where the rib margin meets the diaphragm,  
2 and often times that's a sign of possible kidney  
3 infection.

4 Q. When you say palpate, you mean touch with the hands?

5 A. Yes.

6 Q. Continue, please.

7 A. And then there's an assessment which is cut off.

8 It looks like diverticulitis questionable, ulcer  
9 questionable, irritable bowel, and then there's other  
10 parts that are cut off.

11 It says bland diet, Bentyl, and it's not  
12 readable.

13 (Continued on next page.)

14

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1 BY MR. NORINSBERG:

2 Q. What is the medical term for the diverticulitis?

3 Whatever you had mentioned a minute ago, what is that?

4 A. Diverticulitis is a colon problem where there's a  
5 pouch that comes off the normal lining of the colon that  
6 could get inflamed and infected.

7 Q. And Mr. Feinberg was considering that as a part of a  
8 possible diagnosis?

9 MS. FLYNN: Objection.

10 THE COURT: Overruled.

11 A. It's -- possibly he got that from the hospital. I  
12 don't know where he got that information from.

13 Q. Is it listed down as possible diagnosis?

14 A. Well, coming back from the hospital to rule out  
15 obstruction diverticulitis, so it was entertained as a  
16 diagnosis.

17 Q. Did doctor -- did Mr. Feinberg prescribe medication?

18 A. It's cut off a little bit, but it looks like some  
19 medication was prescribed.

20 Q. What medication does it appear to be?

21 A. The only medication that I see here is Benty1. He  
22 may have gotten another medication -- may have prescribed  
23 another medication, but the medication that I see here is  
24 Benty1, B-E-N-T-Y-L.

25 Q. Tell us again what Benty1 is for, Doctor?

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1 A. Sometimes used for irritable bowel and sometimes  
2 gastrointestinal discomfort.

3 Q. When it says ulcer question mark, it means it's a  
4 possible diagnosis but he's not sure.

5 Correct?

6 A. Correct.

7 It's a differential diagnosis.

8 Q. Meaning it may be an ulcer, it may not be an ulcer,  
9 he does not know at that point, correct?

10 A. At that point it's an uncertain diagnosis, correct.

11 Q. What was the other medication that you had a question  
12 mark next to?

13 A. I'm sorry.

14 Q. What else was part of his differential diagnosis?

15 A. It says diverticulitis.

16 Q. Was there anything else?

17 A. Except for diverticulitis, ulcer and irritable bowel,  
18 oh, obstruction at the top, but that may have come from  
19 the hospital, I don't know.

20 But they would have ruled out obstruction if  
21 that was the case. Obstruction probably would have been  
22 in the hospital admission.

23 Q. Okay. So there were at least three potential  
24 diagnoses that Mr. Feinberg himself made that had not yet  
25 been ruled out; is that correct?

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1 A. That he was working with, correct.

2 Q. Now, I'd like to show you Plaintiff's Exhibit 58.

3 THE COURT: For identification?

4 MR. NORINSBERG: For identification.

5 Q. Do you recognize that document, Dr. Geraci?

6 A. This is a progress note.

7 Q. And does that progress note relate to Rochelle Ramos?

8 A. Yes, it does.

9 Q. And is that progress note dated December 30th of  
10 2005?

11 A. Yes, it is.

12 Q. That would be the day following the exam with  
13 Mr. Feinberg; is that correct?

14 A. Yes.

15 Q. And can you tell us, Doctor --

16 MR. NORINSBERG: I offer plaintiff's 58 into  
17 evidence.

18 THE COURT: Any objection?

19 MS. FLYNN: I have no objection to the entire  
20 medical records going in, your Honor.

21 THE COURT: As of now there is an offer of one  
22 page.

23 MS. FLYNN: I have no objection, your Honor.

24 THE COURT: Plaintiff's Exhibit 58 in evidence.  
25 (Plaintiff's Exhibit 58 in evidence.)

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1 Q. Can you please read to the jury the contents of the  
2 entry that you have in front of you?

3 A. Okay. This entry was made 8:35 p.m. on December 30,  
4 2005 for -- on behalf of Rochelle Ramos, written by, it  
5 looks like it was signed by David White, who is the RN  
6 supervisor at night. This should verify that Ramos  
7 Rochelle did not receive any medication this day,  
8 12/30/05. She presently has Paxil, 40 milligrams once a  
9 day prescribed, Seroquil, S-E-R-O-Q-U-I-L, and that was  
10 100 milligrams by mouth at bedtime and Klonopin, one  
11 milligram by mouth.

12 THE COURT: How do you spell that.

13 A. Klonopin it's the same thing as Clonazepam, it's  
14 K-L-O-N-O-P-I-N. One milligram by mouth, at bedtime.

15 Q. This note was written by David White, correct?

16 A. Correct.

17 Q. David White is a nursing supervisor, correct?

18 A. Correct.

19 Q. David White was one of the seven team leaders in the  
20 jail medical unit, correct?

21 A. Correct.

22 Q. You never spoke to David White about Mr. Feinberg's  
23 allegations, correct?

24 MS. FLYNN: Objection.

25 THE COURT: Sustained.

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1 Q. Did you ever speak to Mr. White about the allegation  
2 against Mr. Feinberg?

3 MS. FLYNN: Objection.

4 THE COURT: Sustained. Improper redirect.

5 Q. Did you ever speak to Mr. White about his note on  
6 December 30, 2005?

7 MS. FLYNN: Objection.

8 THE COURT: Sustained.

9 Q. According to the note in front of you, Ms. Ramos was  
10 not given her medications on December 30, 2005. Is that  
11 correct?

12 MS. FLYNN: Objection.

13 THE COURT: Overruled.

14 A. I can't tell that from this note.

15 Q. That's what it says though, doesn't it?

16 A. Yes, but she may have gotten the medication  
17 afterwards, I don't know for sure.

18 Q. But up until 8:30 on December 30, 2005, this note  
19 says that she hadn't gotten medications, correct?

20 A. That's correct.

21 Q. I'd like to show you plaintiff's 57 for  
22 identification. (Handing.)

23 Do you recognize that document?

24 A. I do.

25 Q. What is that document, doctor?

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1 A. It's a general discharge paperwork from the hospital,  
2 Central Suffolk Hospital.

3 Q. Does it relate to Rochelle Ramos?

4 A. Yes, it does.

5 Q. What's the date of that document?

6 A. 12/29/05.

7 Q. Does it list the diagnosis of a hernia?

8 MS. FLYNN: Objection.

9 THE COURT: Sustained.

10 MR. NORINSBERG: I offer plaintiff's 57 into  
11 evidence.

12 THE COURT: Any objection?

13 MS. FLYNN: I object, your Honor, for several  
14 reasons, yes. I object.

15 THE COURT: Can I see it, please. You don't  
16 have to come up. I just want to see it.

17 (Document handed to the Court.)

18 THE COURT: Is this a record of the Suffolk  
19 correctional facility medical office?

20 THE WITNESS: No, your Honor.

21 THE COURT: It's a record of the Central Suffolk  
22 Hospital?

23 THE WITNESS: Yes, your Honor.

24 THE COURT: Sustained.

25 Q. Did that record enter into the chart of the Suffolk

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1 County jail medical unit?

2 MS. FLYNN: Objection.

3 THE COURT: I'm sorry, did it what?

4 Q. Did you keep that record as part of the jail medical  
5 unit records?

6 A. I don't know.

7 By law, the records from the hospital are  
8 records from the hospital. So we have our own records.

9 Q. But you testified a few moments ago that there are  
10 hospital records in the records that you were looking at  
11 earlier.

12 Correct?

13 A. Yes, there are hospital records here.

14 Q. So hospital records do get sent back to the jail  
15 medical unit to be put part of the inmate's medical file,  
16 correct?

17 A. They become part of the chart but they're technically  
18 not part of the copy. We copy them legally.

19 Q. My only question is, the document that you just  
20 looked like Plaintiff's Exhibit 57, was that part of  
21 Rochelle Ramos' chart in the jail medical unit, to the  
22 best of your knowledge?

23 A. I can't answer that, I don't know. I didn't review  
24 the chart.

25 Q. Now, you testified earlier regarding the photographs

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1 that were shown to the jury; is that correct?

2 A. Yes.

3 Q. Before today did you ever see those photographs?

4 A. No.

5 Q. When were those photographs taken?

6 A. I don't know.

7 Q. Who took the photographs?

8 A. I don't know.

9 Q. Did you have any idea what the purpose was of you  
10 looking at these photographs?

11 MS. FLYNN: Objection.

12 THE COURT: Sustained.

13 Q. In those photographs there are a few correction  
14 officers that are shown to be on duty. Is that correct?

15 A. It appears that there's a couple of correction  
16 officers there.

17 Q. Are you familiar with a correction officer named Gary  
18 Tatrault, T-A-T-R-A-U-L-T?

19 A. Yes.

20 Q. Do you know whether Gary Tatrault was on duty at the  
21 time that Ms. Ramos had her exam with Mr. Feinberg?

22 A. I don't know.

23 Q. Did you ever speak to CO Tatrault?

24 MS. FLYNN: Objection.

25 MR. NORINSBERG: May I finish the question?



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1 MS. FLYNN: I thought that you were finished. I  
2 apologize.

3 Q. Did you ever speak to C0 Tatrault regarding the  
4 allegations which Ms. Ramos had made about what it taken  
5 place on that exam on 12/29.05?

6 MS. FLYNN: Objection.

7 THE COURT: Overruled.

8 A. I don't believe so.

9 Q. Why didn't you speak to C0 Tatrault about that?

10 MS. FLYNN: Objection, your Honor.

11 THE COURT: Sustained.

12 Q. Now, you testified earlier that to your knowledge  
13 Mr. Feinberg had conducted hundreds of exams in the 16  
14 months that you had been at the facility; is that correct?

15 A. Correct.

16 Q. And after January 20th, when you learned about the  
17 second inmate making allegations, how many additional  
18 exams did Gary Feinberg conduct up until the point of  
19 February 8th, when Mr. Feinberg was arrested?

20 A. In total, male, female or --

21 Q. How many female patients did Mr. Feinberg see from  
22 January 20th to February 8th?

23 A. I don't know.

24 Q. You have no idea, correct, sir?

25 A. I have no idea.

**Geraci - Redirect/Norinsberg**

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1 Q. Now, you testified earlier that there's a certain  
2 chain of command that you follow; is that correct?

3 A. Yes.

4 Q. And you testified about Dr. Iftikhar; is that  
5 correct?

6 A. Yes.

7 Q. Who is immediately above Dr. Iftikhar?

8 A. The Deputy Commissioner.

9 Q. Did the Deputy Commissioner ever ask you about what  
10 you knew about the Gary Feinberg allegations?

11 MS. FLYNN: Objection.

12 THE COURT: Sustained.

13 Q. Did you ever have any discussion with the Deputy  
14 Commissioner relating to Gary Feinberg?

15 MS. FLYNN: Objection.

16 THE COURT: Relating to?

17 MR. NORINSBERG: The allegations against  
18 Mr. Feinberg.

19 MS. FLYNN: Objection.

20 THE COURT: Overruled.

21 A. I don't recall.

22 Q. Now, did you ever have discussions with anybody in  
23 that chain of command at any point in time relating to  
24 Gary Feinberg?

25 A. Other than my supervisor, I can't recall.

**Geraci - Redirect/Norinsberg**

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1 MR. NORINSBERG: Thank you, Doctor. I have  
2 nothing further.

3 MS. FLYNN: Your Honor, at this point I would  
4 ask to move the medical records of plaintiff Rochelle  
5 Ramos into evidence.

6 MR. NORINSBERG: And the same objection as  
7 before.

8 Any records that relate to the issues in this  
9 case, I'm happy to allow into evidence.

10 If it doesn't relate to this case, I object.

11 THE COURT: I'd have to go over it.

12 MS. FLYNN: May I go over it with the doctor?

13 THE COURT: Sure.

14 Take out the records that you want to offer. If  
15 you want to offer all of them, you'll have to do it one by  
16 one.

17 MR. NORINSBERG: Would it be possible,  
18 your Honor, to address this at the sidebar?

19 THE COURT: Okay. Come on up.

20 (Continued on next page.)

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**Geraci - Redirect/Norinsberg**

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1 (Whereupon, the following occurred at sidebar.)

2 THE COURT: Here is your 57.

3 MR. NORINSBERG: Earlier when I had objected  
4 earlier to the chart coming in, Ms. Flynn represented to  
5 the Court that she only intended on putting in one record  
6 relating to medications. Now we're talking about going  
7 back and going into all of her medical treatment at the  
8 hospital, none of which is relevant to the issues in this  
9 case.

10 THE COURT: Might be. Did she have any damages?

11 MR. NORINSBERG: There's no --

12 THE COURT: Excuse me. Does she have any  
13 damages.

14 MR. NORINSBERG: There's not any medical  
15 treatment for her damages at that hospital.

16 THE COURT: Excuse me. I didn't ask that. Is  
17 she going to claim any damages in this case?

18 MR. NORINSBERG: She will claim damages, but  
19 there were no entries.

20 THE COURT: What damages is she claiming.

21 MR. NORINSBERG: She's claiming there are severe  
22 emotional distress and there's physical pain to her  
23 vaginal region which was treated at the Nassau County  
24 Medical Center.

25 THE COURT: When anyone makes a claim of

**Geraci - Redirect/Norinsberg**

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1 emotional distress, all of the events that could have  
2 caused emotional distress in her life are fair game.

3 MR. NORINSBERG: I completely agree and I  
4 understand. All I'm saying is I would like an offer of  
5 proof of what these records go to establish.

6 THE COURT: We're going to find out.

7 What records do you want to put in, Ms. Flynn?  
8 Do you want to go over this at the lunch hour with  
9 counsel? What do you want to do?

10 MS. FLYNN: That would be fine, Judge. We can  
11 do that.

12 THE COURT: And anything that's objected to, I  
13 can rule on it later.

14 MS. FLYNN: I'll just ask my other questions  
15 that don't have to do with these records and then we can  
16 discuss it.

17 THE COURT: You'd better ask the doctor to stay  
18 after lunch.

19 MS. FLYNN: All right.

20 (Continued on next page.)

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**Geraci - Recross/Flynn**

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1 (Whereupon, the following occurred in open  
2 court.)

3

4 RECROSS-EXAMINATION

5 BY MS. FLYNN:

6 Q. Doctor, plaintiff's counsel asked you about an  
7 inmate's right to refuse medical treatment. Is it true  
8 that an inmate could refuse to see a specific  
9 practitioner?

10 A. Yes.

11 Q. He also questioned you about why you didn't tell  
12 other people in the medical unit about the allegations  
13 against Gary Feinberg. Did you know if those allegations  
14 were true?

15 A. No, I didn't.

16 Q. And had you had instances, personal instances in your  
17 dealings with inmates where something they told you was  
18 not true?

19 MR. NORINSBERG: Objection.

20 THE COURT: Yes. Sustained.

21 Q. Had you ever had an instance prior to January 18,  
22 2006 when an inmate told you something that you found out  
23 was not true?

24 MR. NORINSBERG: Objection.

25 THE COURT: Sustained.

**Geraci - Recross/Flynn**

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1 Q. Was there any reason that you thought what you were  
2 being told about the allegations about inmate  
3 Rickenbacker -- made by inmate Rickenbacker and inmate  
4 Kennedy's might not be true?

5 A. There have been times where inmates have lied to me  
6 about getting something. One case in particular --

7 MR. NORINSBERG: I'm going to object and move to  
8 strike his whole testimony.

9 THE COURT: I'm not going to strike it. I'm  
10 just going to stop him.

11 A. An inmate had complained --

12 THE COURT: No. I'm going to stop it.

13 THE WITNESS: Oh, yes, your Honor.

14 MS. FLYNN: Judge, may we approach.

15 THE COURT: Okay.

16 (Continued on next page.)

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**Geraci - Recross/Flynn**

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1 (Whereupon, the following occurred at sidebar.)

2 MS. FLYNN: Their whole attack on this doctor is  
3 that he didn't immediately do something when there were  
4 these two allegations by two inmates, and they've been  
5 going into his state of mind, as to why he didn't do this,  
6 why didn't he do this. I think he has a right to show his  
7 past experience dealing with these inmates as to why he  
8 didn't believe what they said.

9 THE COURT: You almost convinced me. Almost.

10 I'm going to allow you to ask him without  
11 getting into specific instances did you have experiences  
12 which you did not convey this information because you had  
13 past experiences where the information given to you was  
14 not true.

15 MS. FLYNN: All right.

16 THE COURT: Then I'll let you ask him.

17 MS. FLYNN: Thank you.

18 (Continued on next page.)

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**Geraci - Recross/Flynn**

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1 (Whereupon, the following occurred in open  
2 court.)

3 BY MS. FLYNN:

4 Q. Doctor, is part of the reason that you didn't  
5 immediately tell people in the medical unit about the  
6 allegations of inmate Rickenbacker and inmate Kennedy  
7 because you had in the past been given information by  
8 inmates that you found out later was not true?

9 A. Yes, ma'am.

10 Q. Plaintiff's counsel had you read into evidence a  
11 medical notation in the medical records regarding the date  
12 of 12/30/06?

13 A. '05?

14 Q. '05, I'm sorry. '05.

15 An indication that Ms. Ramos did not receive her  
16 medication that day from the Suffolk County correctional  
17 facility.

18 Is that what that notation said as of 8:30?

19 A. That's what it says here as of 8:35.

20 Q. Are you aware that Rochelle Ramos was not in the  
21 Suffolk County jail on December 30, 2005?

22 A. No, ma'am.

23 MS. FLYNN: Thank you.

24

25

**Geraci - Redirect/Norinsberg**

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1 REDIRECT EXAMINATION

2 BY MR. NORINSBERG:

3 Q. You mentioned just a moment ago about receiving  
4 information on occasion that turned out not to be true  
5 from an inmate; is that correct?

6 A. I have received information from inmates that has not  
7 been true.

8 Q. Did any inmate ever tell you that a staff member was  
9 sexually assaulting them?

10 A. No.

11 Q. So that would be a much different situation than  
12 anything that you had dealt with in the past, wouldn't it  
13 be, doctor?

14 A. It would be a different situation.

15 MR. NORINSBERG: Thank you, Doctor. Nothing  
16 further.

17 THE COURT: Anything else?

18 MS. FLYNN: No, your Honor. Thank you.

19 THE COURT: All right. You'll have to stay  
20 around for a little while until after lunch.

21 THE WITNESS: Yes, sir.

22 THE COURT: Okay.

23 THE WITNESS: Yes, sir.

24 THE COURT: Thank you. Please call your next  
25 witness.

**Kaufman - Direct/Norinsberg**

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1                   MR. NORINSBERG: Plaintiff calls Richard Kaufman  
2 to the stand.

3

4           **RICHARD KAUFMAN,**

5                   called as a witness, having been first  
6                   duly sworn, was examined and testified  
7                   as follows:

8                   THE COURT: Please state your name and spell  
9 your last name slowly for the record.

10                  THE WITNESS: Richard Kaufman, K-A-U-F-M-A-N.

11                  THE COURT: You may proceed.

12

13

14       **DIRECT EXAMINATION**

15       **BY MR. NORINSBERG:**

16       Q.    Good afternoon, Mr. Kaufman. You and I have met  
17 before once before, correct, sir?

18       A.    Yes.

19       Q.    We met a few weeks back, October 9th, 2009?

20       A.    Yes.

21       Q.    We met at your deposition, is that correct, sir?

22       A.    Yes.

23       Q.    And at your deposition you gave sworn testimony under  
24 oath, correct?

25                  MS. FLYNN: Objection.

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1 THE COURT: Overruled.

2 A. Yes.

3 Q. And you were represented by an attorney at that  
4 deposition, correct?

5 A. Yes.

6 Q. Ms. Flynn was there, correct?

7 A. Yes.

8 Q. And since your deposition, you've had a chance to  
9 look at your testimony; is that correct?

10 MS. FLYNN: Objection, Judge.

11 THE COURT: Overruled.

12 A. Yes.

13 Q. You're currently employed at the Suffolk County  
14 Health Department; is that correct?

15 A. Yes.

16 Q. And you've been employed there since January of 1979,  
17 correct?

18 A. Correct.

19 Q. And you're assigned to the jail in Riverhead; is that  
20 correct?

21 A. Yes.

22 Q. And you worked at the jail medical unit since May of  
23 2004; is that correct?

24 A. Correct.

25 Q. So over five years that you worked at the jail

**Kaufman - Direct/Norinsberg**

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1 medical unit; is that correct?

2 A. Yes.

3 Q. Your title at the jail medical unit is clinic  
4 coordinator, correct?

5 A. Yes.

6 Q. And you supervise people at the jail.  
7 Correct?

8 A. Yes.

9 Q. You supervise drug counselors at the jail.  
10 Correct?

11 A. Yes.

12 Q. And in total there are four drug counselors that work  
13 underneath you that answer to you.

14 Correct?

15 A. Yes.

16 Q. Do you know who Dr. Geraci is?

17 A. Yes.

18 Q. Dr. Geraci is the medical director of the jail  
19 medical unit, correct?

20 A. Yes.

21 Q. And as far as you know, is there anybody above  
22 Dr. Geraci in the jail medical unit?

23 A. In the jail medical unit?

24 Q. Yes.

25 A. No.

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1 Q. Dr. Geraci is your immediate supervisor; is that  
2 correct?

3 A. Yes.

4 Q. And you report to Dr. Geraci on a regular basis,  
5 correct?

6 A. Yes.

7 Q. In fact, Mr. Kaufman, you report to Dr. Geraci  
8 continuously throughout the day; is that correct?

9 A. Yes.

10 Q. And there's a rough estimate would you estimate  
11 there's approximately 59 people employed at the jail  
12 medical unit now?

13 A. Yes.

14 Q. And there are seven team leaders; is that correct?

15 A. Yes.

16 Q. And that was the way it was back in January of 2005  
17 through 2006, correct?

18 A. Correct.

19 THE COURT: There are 17 what?

20 MR. NORINSBERG: I'm sorry, the number seven  
21 team leaders.

22 THE COURT: Seven team leaders?

23 MR. NORINSBERG: Yes.

24 Q. Now, one of the team leaders reported to  
25 Mr. Bloomberg; is that correct?

**Kaufman - Direct/Norinsberg**

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1 A. Yes.

2 Q. But all the other team leaders report to Dr. Geraci,  
3 correct?

4 A. Correct.

5 Q. And that would include you, correct?

6 A. Can yes.

7 Q. Are you familiar with an individual named Gary  
8 Feinberg?

9 A. Yes.

10 Q. Mr. Feinberg was a physician assistant at the jail  
11 medical unit, correct?

12 A. Yes.

13 Q. And you worked in the same area of the jail as Gary  
14 Feinberg, correct?

15 A. I worked in the medical unit.

16 Q. Did you work in the same area of the jail medical  
17 unit as Gary Feinberg?

18 A. No.

19 Q. Referring to your deposition, page nine, line 18:

20 "Question: Did you work in the same area of the  
21 jail as Gary Feinberg.

22 "Answer: Yes."

23 Do you recall being asked that question and  
24 giving that answer?

25 A. Yes.

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1 Q. So --

2 A. I'm sorry.

3 Q. At your deposition you indicated that you were  
4 working the same area of the jail.

5 Is that correct?

6 A. Yes.

7 Q. And you're in the same unit as well, correct?

8 A. Yes.

9 Q. And you actually are just 25 to 50 feet away from  
10 where Gary Feinberg was; is that correct?

11 A. I worked around the corner down a different corridor.

12 Q. Your best approximation would be from 25 to 50 feet  
13 away, correct?

14 A. Yes.

15 Q. Now, did there come a time, sir, that you learned  
16 that certain allegations were being made against  
17 Mr. Feinberg?

18 A. Yes.

19 Q. And you first heard those allegations on January 18,  
20 2006; is that correct?

21 A. Yes.

22 Q. A drug counselor named Sara Velasquez informed you of  
23 the allegations, correct?

24 THE COURT: Sara who.

25 MR. NORINSBERG: V-E-L-A-S-Q-U-E-Z.



**Kaufman - Direct/Norinsberg**

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1 Q. Is that correct, sir?

2 A. Yes.

3 Q. And Ms. Velasquez was a drug counselor that worked  
4 underneath you in the jail medical unit.

5 Correct?

6 A. Yes.

7 Q. And to the best of your memory, what did  
8 Ms. Velasquez tell you relating to Gary Feinberg?

9 A. Ms. Velasquez came to me with some specific concerns  
10 that an inmate had said to her regarding her encounter  
11 with Gary Feinberg.

12 Q. Well, besides talking about any concerns, did she  
13 tell you anything about the allegations that the person  
14 had made?

15 A. She had alleged that there were some inappropriate  
16 physical contact.

17 Q. And when you say she, did you learn the name of that  
18 inmate was Linda Kennedy?

19 A. Yes.

20 Q. Now, once you heard that information, you went to get  
21 Dr. Geraci, correct?

22 A. Correct.

23 Q. And then you, Dr. Geraci and Ms. Velasquez had a  
24 conversation; is that correct?

25 A. Yes.

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1 Q. And in that conversation, Ms. Velasquez related to  
2 you and to Dr. Geraci what she had learned from Linda  
3 Kennedy, correct?

4 A. Yes.

5 Q. Now, you were present during the entire conversation;  
6 is that correct?

7 A. Yes.

8 Q. Can you please tell the members of the jury what did  
9 Dr. Geraci say in response to these allegations when he  
10 first heard them?

11 A. I don't recall what Dr. Geraci said directly.

12 Q. Can you tell the members of the jury a single word  
13 that Dr. Geraci said during this conversation?

14 A. I don't recall what Dr. Geraci said directly.

15 Q. So the answer to my question would be no, you can't  
16 relate a single word that he said; is that correct?

17 A. I don't remember that -- what he said. So yes. I  
18 don't recall.

19 Q. Do you recall in sum and substance what Dr. Geraci  
20 said?

21 A. I recall that we were listening.

22 Q. My question, Mr. Kaufman, is do you recall in sum and  
23 substance what Dr. Geraci said in response?

24 A. No.

25 Q. Can you please describe to the jury what was

**Kaufman - Direct/Norinsberg**

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1 Dr. Geraci's reaction when he first heard the information  
2 relating to Linda Kennedy?

3 A. When he first heard the information from me?

4 Q. When he first heard the information from  
5 Ms. Velasquez during this conversation, can you describe  
6 Dr. Geraci's reaction?

7 MS. FLYNN: Objection.

8 THE COURT: Overruled.

9 A. I can't interpret his reaction.

10 Q. So you can't give the jury any description at all  
11 about how he reacted. Is that your testimony, sir?

12 A. Yes.

13 Q. What about you, sir? Were you shocked at the  
14 allegation?

15 A. It was a shocking allegation, yes.

16 Q. Referring to your deposition, page 22 line 20?

17 "Question: Were you shocked at the allegation?

18 "Answer: I don't -- I don't recall being  
19 shocked."

20 Do you recall giving that testimony at your  
21 deposition?

22 A. Yes, I do.

23 Q. You gave that a just a few weeks ago, is that  
24 correct, Mr. Kaufman?

25 A. Yes, correct.

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1 Q. Now, can you tell the members of the jury what steps  
2 if any did Dr. Geraci take with respect to these  
3 allegations, to your knowledge?

4 A. I don't know what Dr. Geraci did directly.

5 Q. Well, did Dr. Geraci ever tell you that he took any  
6 action with respect to these allegations?

7 A. Yes.

8 Q. Referring to your deposition, page 31 line 15:

9 "Question: Did Dr. Geraci tell you that he took  
10 any action in response to this complaint?

11 "Answer: At this time I don't recall."

12 MS. FLYNN: Objection.

13 Q. Do you recall being asked that question and giving  
14 that answer?

15 THE COURT: Overruled.

16 A. Yes.

17 Q. So three weeks ago you couldn't remember whether or  
18 not he told you that he had done anything, correct?

19 A. That's correct.

20 Q. Is your memory better now today, Mr. Kaufman?

21 A. Yes, it is.

22 Q. It's better now today than it was three weeks ago  
23 when you testified under oath at your deposition; is that  
24 correct?

25 A. Yes, it is.

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1 Q. And how did your memory improve during that time,  
2 sir?

3 A. Because I've been thinking about in exclusively for  
4 the last three weeks.

5 Q. This particular case has been on your mind for the  
6 last three weeks?

7 A. Yes.

8 Q. Now, did you ever learn from any third-party what  
9 action Dr. Geraci took, if any, in response to Linda  
10 Kennedy's allegation?

11 A. I'm sorry, could you rephrase the question?

12 Q. Sure.

13 A. Thank you.

14 Q. Did you ever learn from anybody else --

15 A. Other than?

16 Q. Other than Dr. Geraci himself, about what actions  
17 Dr. Geraci took in response to the Linda Kennedy  
18 allegations?

19 A. I don't think so, no.

20 Q. Now, at some point you decided to interview  
21 Ms. Kennedy yourself; is that correct?

22 A. Yes.

23 Q. Even though you're not an investigator, you thought  
24 that it was important to interview her, correct?

25 A. Yes.

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1 Q. You wanted to find out what allegations she was  
2 making, correct?

3 A. Yes.

4 Q. You wanted to hear directly what it was that she was  
5 claiming, correct?

6 A. Yes.

7 Q. And so you interviewed Ms. Kennedy that same day,  
8 correct?

9 A. Yes.

10 Q. And the interview took place in your office; is that  
11 correct?

12 A. Yes.

13 Q. And Ms. Kennedy was crying during this interview,  
14 correct?

15 A. Yes.

16 Q. In fact she was crying loudly during this interview,  
17 correct?

18 A. Yes.

19 Q. And you understood from Ms. Velasquez that Linda  
20 Kennedy was crying very hard during her interview with  
21 Ms. Velasquez as well, correct?

22 MS. FLYNN: Objection.

23 THE COURT: Overruled.

24 A. Yes.

25 Q. So in both of her interview with Ms. Velasquez and

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1 her interview with you, Ms. Kennedy was crying hard. Is  
2 that correct?

3 MS. FLYNN: Objection.

4 THE COURT: Overruled.

5 A. I understood that she was crying with Ms. Velasquez  
6 and yes, she was crying very hard with me.

7 Q. And yet, even after you met with Ms. Kennedy and you  
8 saw that she was crying very hard, you didn't form any  
9 opinion as to whether or not Ms. Kennedy was telling the  
10 truth. Correct?

11 A. That's correct.

12 Q. So as far as you were concerned, Ms. Kennedy could be  
13 telling the truth or she could be make up the whole thing,  
14 correct?

15 A. I suppose, yes.

16 Q. Now, two days after interviewing Ms. Kennedy you  
17 learned that another inmate was make similar allegations  
18 to Ms. Kennedy, correct?

19 A. Yes.

20 Q. And that inmate was Lowrita Rickenbacker.  
21 Correct?

22 A. Yes.

23 Q. And you learned about Ms. Rickenbacker during a  
24 meeting which was held on January 20, 2006, correct?

25 A. Yes.

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1 Q. There were four people who attended in meeting,  
2 correct?

3 A. Yes.

4 Q. Dr. Geraci was there?

5 THE COURT: You want to slow down. You're going  
6 very rapidly.

7 MR. NORINSBERG: Going at flank speed.

8 THE COURT: My mind can't keep up with you.

9 I'm sure the jurors have no trouble at all  
10 faking notes or anything.

11 MR. NORINSBERG: I was just building up to that  
12 flank speed again, you know.

13 THE COURT: Slow down.

14 MR. NORINSBERG: We will slow it down.

15 Q. There were four people who attended this meeting,  
16 correct?

17 A. Yes.

18 Q. Dr. Geraci was there, correct?

19 A. Yes.

20 Q. Nancy Kugler was there, correct?

21 A. Yes.

22 Q. Carol Manderino was there, correct?

23 A. Yes.

24 Q. And you, Rick Kaufman, were there, correct?

25 A. Yes.



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1 Q. This meeting lasted for about one hour, correct?

2 A. Yes.

3 Q. Can you tell the members of the jury, please, what  
4 did Dr. Geraci say during this meeting?

5 A. I don't recall.

6 Q. You don't recall anything he said, correct, sir?

7 A. Correct.

8 Q. Can you tell the members of the jury what did  
9 Ms. Kugler say during this meeting?

10 A. No.

11 Q. Do you recall a single word Ms. Kugler said?

12 A. Precisely, no.

13 Q. Can you tell the jury what was the reason why this  
14 meeting was held in the first place?

15 A. To discuss what, what had happened with this other  
16 inmate.

17 Q. So at this point on January 20th, you knew that there  
18 were two separate women make similar allegation against  
19 Mr. Feinberg, correct?

20 A. Yes.

21 Q. But even at that point you still had no opinion as to  
22 whether or not these women were telling the truth,  
23 correct?

24 A. Correct.

25 Q. As far as you were concerned, they might be make the

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1 whole thing up, right, Mr. Kaufman?

2 A. I have no opinion, that is correct.

3 Q. After this meeting was held, you met with  
4 Mr. Feinberg; is that correct?

5 A. Yes.

6 Q. You were there and Dr. Geraci was there and  
7 Mr. Feinberg was there, correct?

8 A. Yes.

9 Q. And that meeting took place in your office, correct?

10 A. Yes.

11 Q. That meeting took place on or around January 20th,  
12 correct?

13 A. Yes.

14 Q. That was two days after you learned about Linda  
15 Kennedy, correct?

16 A. Yes.

17 Q. And it was the same day you learned about Lowrita  
18 Rickenbacker, correct?

19 A. Yes.

20 Q. Can you tell the members of the jury what questions  
21 did Dr. Geraci ask Mr. Feinberg during this meeting?

22 A. I can't tell what direct questions he asked, no, I  
23 can't.

24 Q. Can you describe to the jury the tone that Dr. Geraci  
25 used when he was asking questions at the meeting?

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1 A. I don't understand the tone? I don't understand what  
2 you mean by --

3 Q. Was it an angry tone, it was a suspicious tone, it  
4 was a supportive tone? Do you have any recollection?

5 A. It wasn't angry, suspicious or supportive that I can  
6 recall. I can't recall exactly what tone he used, sorry.

7 Q. During this meeting Mr. Feinberg was asked some  
8 questions about Linda Kennedy's allegations.

9 Correct?

10 A. Yes.

11 Q. But he was not asked any questions about  
12 Ms. Rickenbacker, was he?

13 A. I didn't bring up Ms. Rickenbacker, no.

14 Q. In fact, Ms. Rickenbacker's allegations were never  
15 mentioned during this meeting, were they?

16 A. Correct.

17 Q. And the name Lowrita Rickenbacker was never mentioned  
18 to Gary Feinberg during this meeting, correct?

19 A. Not by me, no.

20 Q. Can you tell the jury why was Lowrita Rickenbacker's  
21 name not mentioned during this meeting with Gary Feinberg?

22 MS. FLYNN: Objection.

23 THE COURT: Overruled.

24 A. I didn't mention that individual's name because the  
25 person who had come to me originally, who was under my

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1 supervision, was not talking about that individual.

2 THE COURT: Was what?

3 A. Was not speaking about that individual.

4 So I didn't believe it was in my purview to  
5 explore that.

6 Q. Somebody came to you directly about Linda Kennedy,  
7 correct?

8 A. Correct.

9 Q. But then two days later you learned about another  
10 inmate make similar allegation against Mr. Feinberg.  
11 Correct?

12 A. Correct.

13 Q. You were at a meeting sitting there with  
14 Mr. Feinberg.

15 Correct?

16 A. Correct.

17 Q. And you yourself asked questions during this meeting,  
18 didn't you?

19 A. No.

20 Q. Referring to your deposition page 68, line 15:

21 "Question: Did you ask any questions during  
22 this meeting at all?

23 "Answer: I have to say yes."

24 Do you recall giving that testimony three weeks  
25 ago at your deposition?

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1 A. Yes. May correct myself?

2 Q. When you gave that testimony, you swore to tell the  
3 truth, correct?

4 A. Yes.

5 Q. And you were telling the truth?

6 A. And I was telling the truth.

7 Q. So during this meeting you did in fact ask some  
8 questions of Mr. Feinberg?

9 A. Yes.

10 Q. Even if whether you felt it was your place to or not,  
11 you actually did ask him some questions during the  
12 meeting.

13 Correct?

14 A. Correct.

15 Q. But you never once asked him about the second  
16 inmate's allegations, right?

17 A. That's correct.

18 Q. And as you sit here today, you have no memory of any  
19 of the questions that you did ask him during that meeting;  
20 is that correct?

21 A. That's correct a.

22 Q. Now, you remember Mr. Feinberg adamantly denying  
23 these charges though, you remember that?

24 A. Yes.

25 Q. So that stands out in your memory from that meeting,

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1 correct?

2 A. Yes.

3 Q. That's the only thing that you remember, correct?

4 A. That stands out significantly in my mind.

5 Q. And this meeting lasted twenty to thirty minutes,  
6 correct?

7 A. Correct.

8 Q. But the only single thing that you can recall is  
9 Mr. Feinberg adamantly denying the allegations, true?

10 MS. FLYNN: Objection.

11 THE COURT: Overruled.

12 A. That's the only thing that I clearly recall in  
13 specific detail.

14 Q. Now, after this meeting, you had a chance to speak to  
15 Ms. Kennedy in an interview, you had a chance to speak  
16 with Mr. Feinberg, did you form any opinion at that point  
17 in time as to whether or not something improper had  
18 happened?

19 A. No.

20 Q. Did you form any opinion that something improper had  
21 not happened?

22 A. No.

23 Q. So even after speaking to both of these people you  
24 still had no idea; is that correct, sir?

25 A. Yes.

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1 Q. In fact you felt that it was not your responsibility  
2 to make a determination that anything had happened.

3 Correct?

4 A. That's correct.

5 Q. And as far as you were concerned, whoever was going  
6 to have to make that decision, it wasn't your  
7 responsibility?

8 A. It was not my responsibility to decide on who had  
9 done what.

10 Q. Whose responsibility would it be to decide whether or  
11 not something improper had happened as far as you know?

12 A. My responsibility was to tell my direct supervisor  
13 what I knew. And that's, that's where I took it. That's  
14 what I was thinking about. This was brought to my  
15 attention, I brought it to my supervisor and that's where  
16 I went with it.

17 Q. My question is, Mr. Kaufman, who in your mind would  
18 be the individual responsible for resolving this issue, if  
19 anybody?

20 A. The -- just state -- which issue are you talking  
21 about?

22 Q. Who in your mind would be the individual responsible  
23 for resolving the question of whether or not something  
24 improper had happened?

25 A. Either the -- whomever was charged with investigating

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1 the case or the jury if it got that far.

2 Q. The jury is sitting here now. We're talking about  
3 what happened three years ago, correct?

4 A. Yes.

5 Q. Would it be fair to say, Mr. Kaufman, that you have  
6 no idea who would be responsible for making that  
7 determination?

8 MS. FLYNN: Objection.

9 THE COURT: Overruled.

10 A. No. That wouldn't be fair to say.

11 Q. Referring to your deposition, page 73 line 7:

12 "Question: Who in your mind would be the  
13 individual responsible for resolving this issue if  
14 anybody?

15 "Answer: I have no idea."

16 Do you recall being asked that question and  
17 giving that answer?

18 A. Yes.

19 Q. So at your deposition three weeks ago, you had no  
20 idea who would be responsible for deciding if something  
21 improper had happened.

22 Correct?

23 A. Yes.

24 Q. And you've been working at the Health Department for  
25 30 years; is that correct?



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1 A. That's correct.

2 Q. And you were working at this jail for five years,  
3 correct?

4 A. That's correct.

5 Q. But you still have no idea who would be responsible  
6 for making that determination, correct?

7 A. Precisely, correct.

8 Q. Would it be fair to say, Mr. Kaufman, that you never  
9 received any type of training as to what steps you were  
10 supposed to follow if an inmate alleges a claim of sexual  
11 assault?

12 A. Precisely, correct.

13 Q. Now, the jail has a unit known as internal security.  
14 Is that correct?

15 A. Yes.

16 Q. And there are a group of officers who, in internal  
17 security, who are there to ensure the security of the  
18 facility and to investigate issues that need  
19 investigation.

20 Correct?

21 A. Yes.

22 Q. But you did not report these allegations do internal  
23 security, did you?

24 A. No.

25 Q. Now, you're familiar with the Internal Affairs

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1 Bureau, correct?

2 A. Yes.

3 Q. The Internal Affairs Bureau investigates issues  
4 internal to the officers or employees of the jail,  
5 correct?

6 A. Yes.

7 Q. Did you ever contact the Internal Affairs Bureau  
8 relating to these allegations?

9 A. No.

10 Q. Did you ever contact anybody from the sheriff's  
11 department relating to the allegations against  
12 Mr. Feinberg?

13 A. No.

14 Q. So you didn't report them to internal security, you  
15 didn't report them to Internal Affairs, and you didn't  
16 report them to anybody in the sheriff's department,  
17 correct?

18 A. Correct.

19 Q. Apart from Dr. Geraci, you didn't report these  
20 allegations to anybody in the jail, correct?

21 A. Correct.

22 Q. Because as far as you were concerned it wasn't your  
23 responsibility to do so, correct?

24 A. Correct.

25 Q. Even though you're a clinic coordinator, correct?

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1 A. Yes.

2 Q. Even though you're one of the seven team leaders in  
3 the jail medical unit, correct?

4 A. Yes.

5 Q. Now, you're familiar with what's known as the jail  
6 medical unit manual; is that correct?

7 A. Yes.

8 Q. And it's called the jail medical unit policy and  
9 procedure manual?

10 A. Yes.

11 Q. It existed in 2005; is that correct?

12 A. Yes.

13 Q. And to your knowledge, sir, is there any guidelines  
14 in there that instructs staff members about what steps to  
15 take if an inmate makes a complaint about sexual abuse?

16 A. No.

17 Q. There are no such guidelines, correct, sir?

18 A. Right.

19 Q. Now, you talked a little earlier about Nancy Kugler;  
20 is that correct?

21 A. Yes.

22 Q. Her name came up when we were talking about that  
23 meeting?

24 A. Yes.

25 Q. Is that correct?

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- 1 A. Yes.
- 2 Q. Nancy Kugler was the senior psychiatric social  
3 worker, correct?
- 4 A. Yes.
- 5 Q. She was also a team leader, correct?
- 6 A. Yes.
- 7 Q. And on February 9, Ms. Kugler told you that another  
8 inmate had come forward and was making similar allegations  
9 against Mr. Feinberg; is that correct?
- 10 A. Yes.
- 11 Q. And at that point you told Ms. Kugler to go to  
12 security; is that correct?
- 13 A. Yes.
- 14 Q. You meant internal security, correct?
- 15 A. Yes.
- 16 Q. Dr. Geraci was present when you made this  
17 recommendation, correct?
- 18 A. Yes.
- 19 Q. But you yourself never considered going to internal  
20 security relating to these allegations, correct?
- 21 A. Yes.
- 22 Q. When you learned about Ms. Kennedy's allegations you  
23 didn't go to security, correct?
- 24 A. Correct.
- 25 Q. When you learned about Ms. Rickenbacker's allegations

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1     you didn't go to security.

2                     Correct?

3     A.    Correct.

4     Q.    But when Ms. Kugler told you about another inmate,  
5     you told her to go to security.

6                     Correct?

7     A.    Yes.

8     Q.    So you told Ms. Kugler to do something that you  
9     yourself had not done.

10                    Correct?

11    A.    Yes.

12    Q.    And you were both team leaders in the jail medical  
13    unity, correct?

14    A.    Yes.

15    Q.    Now, to your knowledge, Mr. Kaufman, was Mr. Feinberg  
16    ever suspended as a result of these allegations?

17    A.    Suspended?

18    Q.    From his work.

19                    THE COURT:   Was who suspended?

20                    MR. NORINSBERG:   Mr. Feinberg.

21    A.    Not to my knowledge.

22                    THE COURT:   All right.

23                    We're going to take a break at this time.

24    Members of the jury, we're going to take a recess for  
25    lunch.

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1                   In the meantime, please don't discuss this case  
2     either among yourselves or with anybody else, keep a open  
3     mind, come to no conclusions until you're in that jury  
4     room deliberating after all the evidence has been present.  
5     We will take a recess until 1:30. Have a nice lunch.

6                   (Whereupon, the jury retired from the  
7     courtroom.)

8                   (Luncheon recess taken at this point.)

9                   (Continued on next page.)

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1 AFTERNOON SESSION

2

3 (In open court; jury not present.)

4 THE COURT: Ms. Flynn, did you want to speak to  
5 me?

6 MS. FLYNN: Yes, Judge.

7 Regarding the plaintiff's medical records,  
8 regarding the issue about the plaintiff's medical records.

9 THE COURT: Yes.

10 MS. FLYNN: From the Suffolk County Correctional  
11 Facility.

12 The plaintiff's counsel has advised me that he  
13 cannot consent to them going into evidence. I would renew  
14 my application to put them into evidence on the grounds  
15 that it contains information regarding plaintiff's mental  
16 and physical condition when she entered the Suffolk County  
17 jail prior to any incident with Gary Feinberg.

18 THE COURT: What's the objection?

19 MR. NORINSBERG: We might be able to resolve  
20 this.

21 The only thing is, we want to be able to look  
22 through each one of those records that Ms. Flynn is trying  
23 to offer, and we don't want to do it under rushed  
24 circumstances.

25 We might well be able to consent. I just don't

1 want to do that without us having had a chance to go  
2 through it carefully and seeing if we have any particular  
3 objections to any entries.

4 MS. FLYNN: I offered to show them this at the  
5 beginning --

6 THE COURT: Do you need that now with this  
7 witness?

8 MS. FLYNN: If I don't get it in through  
9 Dr. Geraci, no.

10 I can always bring him back if I need to bring  
11 him back.

12 THE COURT: So give him an opportunity to look  
13 at it.

14 MS. FLYNN: Okay.

15 One other issue, Judge. I have learned that  
16 Lowrita Rickenbacker has an outstanding warrant for her  
17 arrest. It's issued by -- she has a violation of  
18 probation. There's an outstanding warrant for her.

19 And Nassau County indicates that they would be  
20 interested in taking her into custody.

21 MR. NORINSBERG: Do we have a copy of the  
22 warrant?

23 Can we see it?

24 MS. FLYNN: I'm getting a copy of the warrant.

25 THE COURT: I have nothing to do with that.



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1 MS. FLYNN: I understand.

2 I just did not want to surprise the court or  
3 counsel with that.

4 THE COURT: I have only one comment.  
5 Such as life.

6 MS. FLYNN: Yes, Judge.

7 Thank you.

8 THE COURT: Let's bring in the jury.

9 (Whereupon, there was a pause in the  
10 proceedings.)

11

12 THE CLERK: Jury entering.

13 (Jury enters the courtroom.)

14 THE COURT: Please be seated, members of the  
15 jury.

16 You may proceed.

17 MR. NORINSBERG: Thank you, your Honor.

18 BY MR. NORINSBERG:

19 Q. Good afternoon, Mr. Kaufman.

20 A. Good afternoon.

21 Q. So you had testified earlier about the meeting that  
22 you had with Dr. Geraci and Mr. Feinberg on January 20th.

23 Is that correct?

24 A. Yes.

25 Q. After this meeting, did Dr. Geraci ever tell you that

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1 Mr. Feinberg could no longer see Ms. Kennedy?

2 A. Not after that meeting.

3 No.

4 Q. And after this meeting, did Dr. Geraci ever tell you  
5 that Mr. Feinberg could no longer see  
6 Lowrita Rickenbacker?

7 A. No.

8 Q. During this meeting, did you ever hear Dr. Geraci  
9 tell Gary Feinberg that he could not see  
10 Lowrita Rickenbacker anymore?

11 A. Not that I recall.

12 Q. During this meeting, did you ever hear Dr. Geraci say  
13 or tell Gary Feinberg that he couldn't see Linda Kennedy  
14 anymore?

15 A. Not that I recall.

16 Q. Now, at some point in time you learned that  
17 Mr. Feinberg had been arrested.

18 Correct?

19 A. Correct.

20 Q. Were you surprised that Mr. Feinberg was arrested?

21 A. Could you rephrase that question?

22 It's hard to answer like that in a yes or no  
23 form.

24 Q. When you heard that Mr. Feinberg had been arrested,  
25 did it surprise you?

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1 A. I don't recall being surprised --

2 THE COURT: Mr. Kaufman, if you can't answer a  
3 question, you can say I can't answer that question yes or  
4 no.

5 A. I can't answer that question.

6 THE COURT: If that's your wish.

7 BY MR. NORINSBERG:

8 Q. You can't answer that question?

9 Referring to your deposition at page 80, line 8:

10 Question: Were you surprised?

11 Answer: Yes.

12 Do you recall giving that testimony at your  
13 deposition?

14 A. In that context, yes.

15 Q. So three weeks ago at your deposition you could  
16 answer the question.

17 Correct?

18 A. Yes.

19 Q. And you were surprised when you learned about this,  
20 according to your deposition testimony --

21 A. Correct.

22 Q. Correct?

23 A. Correct.

24 Q. But in court now, here today, you have some  
25 difficulty answering that question.

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1 Correct?

2 A. Yes.

3 Q. Now, you discussed Mr. Feinberg's arrest with  
4 Dr. Geraci.

5 Correct?

6 A. Yes.

7 Q. You discussed it when he was arrested.

8 Correct?

9 A. Yes.

10 Q. Where did that conversation take place, sir?

11 A. In the medical unit.

12 THE COURT: You have to get closer to the  
13 microphone and keep your voice up.

14 THE WITNESS: I'm sorry.

15 A. In the medical unit of the jail.

16 Q. Can you tell the members of the jury, what did  
17 Dr. Geraci say to you at that time after Mr. Feinberg had  
18 been arrested?

19 A. I don't recall.

20 Q. Did Dr. Geraci express any disbelief during this  
21 conversation?

22 A. I don't recall.

23 Q. Did Dr. Geraci hold any type of meeting in the jail  
24 medical unit to discuss what had happened with  
25 Gary Feinberg?

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1 A. There was a meeting subsequent to his arrest.

2 Q. Referring to your deposition, page 86, line 6:

3 Question: After Mr. Feinberg was arrested, did  
4 Dr. Geraci hold any type of meeting with the jail medical  
5 unit to discuss what about had happened?

6 Answer: I don't recall.

7 Do you recall being asked that question and  
8 giving that answer?

9 A. Yes, I do.

10 Q. So at your deposition three weeks ago, you couldn't  
11 remember any meeting that was held in the jail medical  
12 unit after Mr. Feinberg's arrest.

13 Correct?

14 A. Correct.

15 Q. And now is it your testimony to this jury that there  
16 was, in fact, some type of meeting held?

17 A. Subsequent to his arrest.

18 Yes.

19 Q. So your memory improved from the time you gave your  
20 deposition three weeks ago.

21 Is that correct?

22 A. I have been thinking about it over the last however  
23 long a time it's been since the deposition.

24 Yes.

25 Q. When, exactly, was that meeting held?

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1 A. That, I don't recall.

2 Q. What, exactly, was discussed at that meeting?

3 A. To the best of my recollection, just acknowledging  
4 the arrest, and no other -- and I don't recall the  
5 details.

6 Q. Well, were there any questions asked during the  
7 meeting about how this type of thing could have happened  
8 in the jail medical unit?

9 A. Not to my knowledge.

10 Q. Did Dr. Geraci circulate any type of memo after the  
11 arrest talking about what had happened and what could be  
12 done in the future to prevent this type of thing?

13 A. Not to my knowledge.

14 Q. Now, I'd like to go back to when you were first  
15 informed about Ms. Kennedy's allegations by Sara  
16 Velasquez.

17 After that conversation you prepared some  
18 personal notes.

19 Is that correct?

20 A. Yes.

21 Q. I'd like to show you what has been marked as  
22 Plaintiff Exhibit 30 A for identification.

23 THE COURT: That's 3-8?

24 MR. NORINSBERG: 3-0-A.

25 THE COURT: 30 A?

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1 MR. NORINSBERG: Yes.

2 30 A and there's going to be a 30 B.

3 BY MR. NORINSBERG:

4 Q. Can you please take a look at that, sir.

5 A. Yes.

6 (Whereupon, there was a pause in the  
7 proceedings.)

8

9 BY MR. NORINSBERG:

10 Q. Do you recognize that document?

11 A. Yes, I do.

12 Q. You typed those notes yourself?

13 A. Yes, I did.

14 Q. Is your signature on that page?

15 A. Yes, it is.

16 MR. NORINSBERG: I offer 30 A into evidence.

17 THE COURT: Any objection?

18 MS. FLYNN: No objection.

19 THE COURT: Plaintiff Exhibit 30 A, for able, in  
20 evidence.

21 (Whereupon, Plaintiff Exhibit 30 A was received  
22 in evidence, as of this date.)

23 BY MR. NORINSBERG:

24 Q. Can you describe to the jury what is the document  
25 that you have in front of you?

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1 A. My personal notes regarding my meeting with Sara  
2 Velasquez.

3 Q. And what was the reason why you wrote these notes,  
4 Mr. Kaufman?

5 A. Well, I wanted to be sure if, you know, if  
6 anything -- if there was anything in the future that I had  
7 to recall about this, I would be able to recall it.

8 Q. And these notes are a fair and accurate reflection of  
9 the information Ms. Velasquez gave you.

10 Correct?

11 A. Yes.

12 Q. As far as you remember, there's nothing that she told  
13 you that's not reflected in these notes.

14 Correct?

15 A. Nothing that Sara told me?

16 Q. Yes.

17 A. Correct.

18 Q. I'd like to read from this document, sir, then I'll  
19 ask you a question.

20 It says, quote, she then spoke about an incident  
21 with Gary Feinberg, staff PA, but it was difficult to  
22 understand as she was crying very hard. Finally, she  
23 explained that he was being so touchy when he examined her  
24 arm and that he recommended exercises for her shoulders  
25 which he started to demonstrate.



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1                   He had her stand up, and he had also stood up.

2       An inmate reported that he went behind her --

3                   And he is referring to Mr. Feinberg, correct?

4       A.     Yes.

5       Q.     And her is referring to Ms. Kennedy, correct?

6       A.     Yes.

7       Q.     And told her to bend over the exam table.

8                   At which point he continued to touch her in an  
9       unspecified manner, and he remained behind her. She  
10      stated that he had an erection and she thought he might  
11      have ejaculated while rubbing up against her.

12                  She stated that she felt him, quote, so erect  
13      and so hot, inmate was crying hysterically during  
14      discussion of this incident.

15                  Did I read that accurately, sir?

16      A.     Yes, you did.

17      Q.     So that is information that you were given through  
18      your drug counselor, Sara Velasquez, correct?

19      A.     Correct.

20      Q.     She spoke to Ms. Kennedy.

21                  She provided you with the information, and you  
22      recorded it in these notes.

23                  Correct?

24      A.     Yes.

25      Q.     And that was done on January 18th of 2006.

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1 Correct?

2 A. Correct.

3 Q. The same day that Ms. Kennedy spoke to Ms. Velasquez.

4 Correct?

5 A. Correct.

6 Q. Then, as you testified earlier, you, yourself, spoke  
7 with Ms. Kennedy.

8 Correct?

9 A. Yes.

10 Q. And you generated a set of notes related to that  
11 interview as well.

12 Correct?

13 A. Yes.

14 Q. I'd like to show you what has been marked as 30 B for  
15 identification.

16 (Whereupon, there was a pause in the  
17 proceedings.)

18

19 BY MR. NORINSBERG:

20 Q. Do you recognize that document, sir?

21 A. Yes.

22 Q. You didn't take notes during the interview with  
23 Mrs. Kennedy.

24 Is that correct?

25 A. During the interview, correct.

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1 Q. But afterwards you generated this report.

2 Is that correct?

3 A. Yes.

4 Q. And do you recognize the notes in front of you to be  
5 the report that you wrote after Linda Kennedy's interview?

6 A. Yes.

7 These are my personal notes.

8 Q. And this, again, took place on the same day, January  
9 18th.

10 Is that correct?

11 A. Correct.

12 Q. And there's a signature line on there at the bottom  
13 of this report.

14 Is that correct?

15 A. Yes.

16 Q. And your signature is imprinted on there.

17 Correct?

18 A. Yes.

19 Q. Now, on 30 A, which goes back to the first interview  
20 that Ms. Velasquez covered, you have Dr. Geraci's  
21 signature on that, on 30 A.

22 Is that correct?

23 A. Yes.

24 Q. So that indicates that that information on 30 A was  
25 presented to Dr. Geraci as well.

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1 Correct?

2 A. Yes.

3 Q. And he actually signed it after reading it.

4 Correct?

5 A. Yes.

6 Q. But on 30 B, Dr. Geraci's name is not listed on that  
7 note, is it?

8 A. No.

9 Q. And you never asked him to sign that note, did you?

10 A. No.

11 I never asked him.

12 Q. Now, this note, you were the one who prepared the  
13 entire note, is that correct, on 30 B?

14 A. Yes.

15 MR. NORINSBERG: I offer 30 B in evidence.

16 THE COURT: Any objection?

17 MS. FLYNN: No objection, your Honor.

18 THE COURT: Plaintiff Exhibit 30 B, for baker,  
19 in evidence.

20 (Whereupon, Plaintiff Exhibit 30 B was received  
21 in evidence, as of this date.)

22 BY MR. NORINSBERG:

23 Q. Now, you testified earlier that you were completely  
24 neutral as to what had happened in this situation.

25 Correct?

**Kaufman - Direct/Norinsberg**

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1 A. Yes.

2 Q. You weren't going to take sides, whether  
3 Ms. Kennedy's side, or Mr. Feinberg's side.

4 Correct?

5 A. Correct.

6 Q. At the bottom of 30 B there are a bunch of bullet  
7 points listed.

8 Correct?

9 A. Yes.

10 Q. And those bullet points represent what you consider  
11 to be inconsistencies in Ms. Kennedy's account.

12 Is that correct?

13 A. Differences, yes, in the two accounts.

14 Q. So differences as to what was told to Ms. Velasquez  
15 and what was told to you.

16 Is that correct?

17 A. Differences between what was told to me and what was  
18 reported to me by Ms. Velasquez.

19 Yes.

20 Q. And you thought it was important to document these  
21 inconsistencies in your report.

22 Correct?

23 A. Yes.

24 Q. Now, did you take into account that Ms. Kennedy was  
25 crying hysterically in the first interview with

**Kaufman - Direct/Norinsberg**

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1 Ms. Velasquez?

2 MS. FLYNN: Objection.

3 THE COURT: Overruled.

4 A. I don't understand what you mean by take into  
5 account.

6 Q. When you highlighted the differences between what she  
7 told Ms. Velasquez and what you were told by her, did you  
8 consider the fact that she was crying hysterically during  
9 the interview with Ms. Velasquez?

10 A. No.

11 I was just taking -- I was just writing down  
12 what I recognized as the differences between the two  
13 reports.

14 Q. Did you consider that she was crying very hard during  
15 your interview?

16 A. I'm not sure I understand what you mean by did I  
17 consider.

18 Q. When you decided to list the differences in the two  
19 accounts, did you consider the fact that she was extremely  
20 upset when she was giving both accounts?

21 MS. FLYNN: Objection.

22 THE COURT: Sustained.

23 BY MR. NORINSBERG:

24 Q. Did you ever discuss these inconsistencies that you  
25 noted with Dr. Geraci?

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1 A. I don't believe I ever discussed them specifically  
2 with him.

3 Q. And even after you wrote this report, you still  
4 hadn't formed any opinion as to whether or not  
5 Ms. Kennedy's account was credible.

6 Is that correct?

7 A. Yes.

8 Q. Now, on this report you also note in the middle,  
9 quote, additionally, inmate states that she filed a formal  
10 grievance with the floor sergeant on Saturday, January  
11 14th, '06.

12 Do you see that, sir?

13 A. Yes.

14 Q. So you were aware from your interview with  
15 Ms. Kennedy that she told you that she filed a formal  
16 grievance.

17 Correct?

18 A. Yes.

19 Q. And she told you who she filed the formal grievance  
20 with.

21 Correct?

22 A. Yes.

23 Q. She told you it was the floor sergeant.

24 Correct?

25 A. Correct.

**Kaufman - Direct/Norinsberg**

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1 Q. And you could have found out who that floor sergeant  
2 was in a matter of minutes.

3 Correct?

4 A. I have no idea how long it would take to find out who  
5 the floor sergeant was.

6 Q. Did you ever try to find out who the floor sergeant  
7 was?

8 A. No.

9 Q. To your knowledge, did Dr. Geraci ever try to find  
10 out who the floor sergeant was?

11 A. I have no knowledge of that.

12 Q. Now, you testified earlier about the meeting that you  
13 had had on January 20th with Dr. Geraci, Ms. Kugler and  
14 Ms. Manderino?

15 A. Yes.

16 Q. You also made notes following that meeting as well.

17 Is that correct?

18 A. Yes.

19 Q. And what was the purpose of making notes following  
20 that meeting that you had?

21 A. So that I would have an accurate recollection of what  
22 took place.

23 Q. I'd like to show you what has been marked as  
24 Plaintiff Exhibit 31 for identification and ask you to  
25 please take a look.



**Kaufman - Direct/Norinsberg**

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1 A. Okay.

2 (Whereupon, there was a pause in the  
3 proceedings.)

4

5 BY MR. NORINSBERG:

6 Q. Did you prepare these notes, sir?

7 A. Yes.

8 Q. That's your handwriting, correct?

9 A. Correct.

10 MR. NORINSBERG: I offer Plaintiff Exhibit 31  
11 into evidence.

12 THE COURT: Any objection?

13 MS. FLYNN: No objection, your Honor.

14 THE COURT: Plaintiff Exhibit 31 in evidence.

15 (Whereupon, Plaintiff Exhibit 31 was received in  
16 evidence, as of this date.)

17 BY MR. NORINSBERG:

18 Q. Now, directing your attention to the top left-hand  
19 margin of this document, do you see that, sir, where it  
20 says date?

21 A. Yes.

22 Q. And then it says 1/20/06, and then there's a question  
23 mark.

24 Correct?

25 A. Yes.

**Kaufman - Direct/Norinsberg**

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1 Q. You wrote that question mark there, correct?

2 A. Yes.

3 Q. And the reason you put a question mark was because  
4 you weren't sure what date this conversation actually took  
5 place.

6 Correct?

7 A. Yes.

8 Q. When, exactly, did you prepare Plaintiff Exhibit 31?

9 A. I wrote this on the 24th of -- January 24th, 2006.

10 Q. So the meeting took place on January 20th, but you  
11 waited until January 24th to make this entry.

12 Is that correct?

13 A. Yes.

14 Q. Why did you wait four days before making notes about  
15 the meeting that took place on January 20th?

16 A. I have no idea.

17 Q. In this note you wrote, quote, met with Nancy, Carol,  
18 and Dr. Geraci to discuss allegations brought forth by  
19 Lowrita Rickenbacker, end quote.

20 Do you see that, sir?

21 A. Yes.

22 Q. So the purpose of the meeting was to discuss the  
23 allegations made by Ms. Rickenbacker.

24 Correct?

25 A. Correct.

**Kaufman - Direct/Norinsberg**

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1 Q. And these allegations were similar to those that had  
2 been made by Ms. Kennedy.

3 Correct?

4 A. Yes.

5 Q. And, in fact, you noted that in your notes.

6 Correct?

7 A. Yes, I did.

8 Q. You also noted in this entry that, quote, now the  
9 inmate feels scorned and wants to bring the issue to the  
10 forefront, end quote.

11 Do you see that, sir?

12 A. Yes, I do.

13 Q. When you say the inmate, are you referring to  
14 Ms. Rickenbacker?

15 A. Yes.

16 Q. Who told you that Ms. Rickenbacker feels scorned?

17 A. Carol Manderino.

18 Q. And after Ms. Manderino told you this, did you reach  
19 the impression that Ms. Rickenbacker was in some way  
20 scorned?

21 Did you believe that?

22 MS. FLYNN: Objection.

23 THE COURT: Sustained.

24 BY MR. NORINSBERG:

25 Q. You also wrote down there that as of January 20th,

**Kaufman - Direct/Norinsberg**

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1 Ms. Rickenbacker wanted to, quote, bring the issue to the  
2 forefront, end quote.

3 Is that correct?

4 A. Yes.

5 I wrote that.

6 Q. And did Ms. Manderino tell you that as well?

7 A. Yes.

8 Q. Now, referring to the same page, you described the  
9 meeting that you had after with Mr. Feinberg.

10 Is that correct?

11 A. Yes.

12 Q. So first you have the meeting with the four of you,  
13 and then afterwards you have a meeting with you,  
14 Dr. Geraci and Mr. Feinberg.

15 Correct?

16 A. Yes.

17 Q. The same day, January 20th.

18 Correct?

19 A. Yes.

20 Q. And then in your notation about the second meeting on  
21 January 20th, you wrote, quote, Lowrita was not mentioned  
22 at this point, end quote.

23 Is that correct, sir?

24 A. Yes.

25 (Continued on next page.)

**Kaufman - Direct/Norinsberg**

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1 BY MR. NORINSBERG:

2 Q. So even though during the first meeting you  
3 understood that Ms. Rickenbacker wanted to bring the issue  
4 to the forefront, you didn't mention this when you were  
5 having a meeting with Mr. Feinberg, correct?

6 A. Yes.

7 Q. And you never mentioned any allegation of  
8 Ms. Rickenbacker to Mr. Feinberg, correct?

9 A. Yes.

10 Q. Now, after that January 20 meeting, was there any  
11 discussion as to what needed to be done to bring this  
12 issue to the forefront?

13 A. Ms. Rickenbacker?

14 Q. Yes.

15 A. Not to my recollection.

16 Q. Was there any decision made as to what needed to be  
17 done to handle this situation with Mr. Feinberg?

18 A. Could you rephrase that please for me.

19 Q. Was there any decision reached after this meeting  
20 with the four of you as to what needed to be done to  
21 handle the situation with Mr. Feinberg?

22 A. Yes.

23 At some point after that meeting there was  
24 conversation about what needed to be done, yes.

25 Q. But there's nothing about that in your notes, is

**Kaufman - Direct/Norinsberg**

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1     there, sir?

2     A.    No.

3     Q.    Is there any mention in your notes about the plan of  
4     action that you agreed upon in that meeting?

5     A.    I didn't say we agreed upon a plan of action in that  
6     meeting.

7     Q.    Well, you wrote your notes four days later, didn't  
8     you?

9     A.    Yes.

10    Q.    So during that four day period did the four of you  
11    reach any type of conclusions as to what you were going to  
12    do with regard to the Gary Feinberg situation?

13                 MS. FLYNN:  Objection.

14                 THE COURT:  Overruled.

15    A.    I don't make policy and, therefore, I don't decide on  
16    issues like that.

17    BY MR. NORINSBERG:

18    Q.    To your knowledge, was any decision ever made with  
19    respect to what was going to be done regarding  
20    Gary Feinberg?

21    A.    A decision, yes, was made about what was going to be  
22    done with Gary Feinberg.

23    Q.    Who made that decision?

24    A.    I guess the sheriff.

25    Q.    That was February 8th, is that what you're referring

**Kaufman - Direct/Norinsberg**

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1 to, when he was arrested?

2 A. When he was arrested.

3 Q. Well, I'm referring to the four people in the meeting  
4 in the jail medical review. The meeting is held on  
5 January 20. You write the note on January 24th.

6 Was there any other time before Mr. Feinberg's  
7 arrest that you learned of any plan of action as to how  
8 you were going to handle this situation with Mr. Feinberg?

9 A. I was not involved in any plan of action regarding  
10 what was going to be done with Mr. Feinberg.

11 Q. And Dr. Geraci never told you about any plan of  
12 action as to what was going to be done with Mr. Feinberg,  
13 correct?

14 A. Correct.

15 Q. Did you ever ask Dr. Geraci, say, you know what's  
16 going on, what are we going to do here about this  
17 situation, did you ever ask him that?

18 A. No, I did not.

19 Q. As far as you're concerned you really weren't  
20 responsible for that issue, correct?

21 A. The medical staff does not answer to me. That's  
22 correct.

23 Q. So you didn't consider this to be your responsibility  
24 to find out what was going to happen with Mr. Feinberg,  
25 correct?

**Kaufman - Direct/Norinsberg**

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1 A. Correct.

2 Q. Now, were you aware that at the same time this  
3 meeting was taking place on January 20, 2006, that  
4 internal affairs had already opened an investigation into  
5 Mr. Feinberg?

6 A. No.

7 Q. Did anybody from internal affairs ever contact you  
8 regarding your knowledge of these allegations?

9 A. No.

10 Q. Were you ever interviewed by anybody from internal  
11 affairs regarding Mr. Feinberg at any time?

12 A. No.

13 Q. To your knowledge did internal affairs interview  
14 anybody from the jail medical unit during their  
15 investigation?

16 A. I don't really know.

17 Q. Were you ever interviewed by anybody from CIB?

18 A. No.

19 Q. What is CIB, Mr. Kaufman?

20 A. I believe it's the criminal investigation bureau.

21 Q. To your knowledge, did CIB ever interview anyone from  
22 the jail medical unit?

23 A. I don't know for sure.

24 Q. Now, at some point after Mr. Feinberg's arrest, you  
25 learned that at least one other inmate had made similar



**Kaufman - Direct/Norinsberg**

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1 allegations, correct?

2 MS. FLYNN: Objection.

3 THE COURT: I'm sorry, I didn't hear your  
4 question.

5 BY MR. NORINSBERG:

6 Q. You learned that at least one other inmate had made  
7 allegations after Mr. Feinberg's arrest, correct?

8 MS. FLYNN: Objection.

9 THE COURT: Overruled.

10 A. Yes.

11 Q. As you sit here today, you have no idea how many  
12 inmates made complaints, correct?

13 MS. FLYNN: Objection.

14 THE COURT: Overruled.

15 A. Yes, correct, I actually don't know how many made  
16 allegations.

17 Q. You have no idea, correct?

18 A. That's correct.

19 MR. NORINSBERG: Thank you.

20 Nothing further.

21 THE COURT: Cross-examination.

22

23 CROSS-EXAMINATION

24 BY MS. FLYNN:

25 Q. Good afternoon.

**Kaufman - Cross/Flynn**

401

1 A. Hi.

2 Q. Do you know who Rochelle Ramos is?

3 THE COURT: I'm sorry?

4 BY MS. FLYNN:

5 Q. Do you know who Rochelle Ramos is?

6 A. Not outside of the scope of this case.

7 Q. Had you ever met her?

8 A. No.

9 Q. If she was here in court today would you recognize  
10 her?

11 A. No.

12 Q. Are you aware that she alleges that the incident that  
13 occurred between her and Gary Feinberg occurred on  
14 December 29, 2005?

15 A. No.

16 Q. Is it fair to say that prior to December 29, 2005,  
17 you had never heard of any allegations of misconduct being  
18 made against Gary Feinberg?

19 A. Yes.

20 Q. Can you tell the jury again what your position is at  
21 the jail?

22 A. I'm a clinical coordinator.

23 I'm responsible for the substance abuse  
24 treatment staff at Riverhead and Yaphank.

25 THE COURT: I'm sorry, you're responsible for

**Kaufman - Cross/Flynn**

402

1 what?

2 THE WITNESS: Substance abuse treatment staff.

3 BY MS. FLYNN:

4 Q. And back in 2005 how many -- how much staff were you  
5 supervising?

6 A. Four drug counselors.

7 Q. Who was your direct supervisor?

8 A. Dr. Geraci.

9 Q. And you're employed by the department of health?

10 A. Suffolk County Department of Health Services, yes.

11 Q. When did you start working for the County of Suffolk?

12 A. My anniversary date is January 1, 1979.

13 Q. And can you just tell the jury what positions you've  
14 held during your employment with the County?

15 A. I initially started out as a substance abuse  
16 treatment counselor. Then I was promoted to clinic  
17 manager, then clinic coordinator in the methadone program,  
18 and then transferred to the clinical coordinator of the  
19 intake unit.

20 Q. How long have you been working at the jail?

21 A. Since January -- at the jail since May of 2004.

22 Q. Could you tell the jury a little bit about your  
23 educational background?

24 A. I have a Bachelor's Degree in psychology, I have a  
25 Master's Degree in community mental health, and I'm a

**Kaufman - Cross/Flynn**

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1     credentialed alcohol and substance abuse counselor and New  
2     York State licensed mental health counselor.

3     Q.    In addition to your employment at the jail, do you  
4     have any other employment?

5     A.    I have a private therapy practice, psychotherapy.

6     Q.    You were asked about whether Linda Kennedy was crying  
7     when you were speaking to her.

8                 Did the fact that she was crying have anything  
9     to do with your evaluation of her credibility?

10    A.    No.

11    Q.    When you were speaking to inmate Kennedy about her  
12    allegations, did you have any idea about whether what she  
13    was saying was true or not true?

14    A.    No.

15    Q.    In your experience working at the jail, have there  
16    been instances where inmates have told you things that you  
17    have later found out are not true?

18                 MR. NORINSBERG:  Objection.

19                 THE COURT:  Overruled.  I'll allow it.

20    A.    Yes.

21    Q.    Plaintiff's attorney was asking you about the meeting  
22    that you had with Carol Manderino, Nancy Kugler and  
23    Dr. Geraci.

24                 You don't remember specifically what was said at  
25    that meeting?

Kaufman - Cross/Flynn

404

1 A. Correct.

2 Q. And just to be clear, this meeting took place about  
3 three years ago?

4 A. Correct.

5 Q. But you do remember generally what was discussed at  
6 that meeting?

7 A. Yes.

8 Q. And as a matter of fact you made a record of that  
9 meeting?

10 A. Yes.

11 Q. When you and Dr. Geraci met with Gary Feinberg on or  
12 about January 20, your note indicated that Lowrita  
13 Rickenbacker was not discussed at that point?

14 A. Correct.

15 Q. Do you know if Dr. Geraci had a separate meeting with  
16 Gary Feinberg?

17 A. I have no direct knowledge of that.

18 Q. And were you in any way back in January of 2006,  
19 Mr. Feinberg's supervisor?

20 A. No.

21 Q. So when you were in this meeting with Dr. Geraci and  
22 Mr. Feinberg, Mr. Feinberg's supervisor was there who was  
23 Dr. Geraci?

24 A. Correct.

25 Q. By the way, your job at the jail, what services do

**Kaufman - Cross/Flynn**

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1 you provide to the inmates?

2 A. At this point in time I don't provide a direct  
3 service to the inmates.

4 I supervise the alcohol and substance abuse  
5 treatment staff and I help Dr. Geraci for any projects  
6 that he might need some help on.

7 Q. And your counselors are involved in counseling the  
8 inmates?

9 A. Correct.

10 Q. Are you in any way involved with maintaining the  
11 security of the jail?

12 A. No.

13 Q. Plaintiff's counsel asked you before whether there  
14 are any specific rules at the jail regarding what steps  
15 you're to take when someone makes an allegation to you  
16 that there's been sexual abuse or sexual contact by a  
17 staff member on an inmate, and I believe you answered no?

18 A. Correct.

19 Q. Are there rules at the jail about what you are to do  
20 if you're made aware of this conduct by a staff member?

21 A. Yes.

22 Q. And what do those rules say?

23 A. You go and tell your supervisor as quickly as  
24 possible what's going on.

25 Q. And what you were told the allegations were being

**Kaufman - Cross/Flynn**

406

1 made by inmate Kennedy, you felt those were allegations of  
2 misconduct?

3 A. Correct.

4 Q. And you told your supervisor?

5 A. Correct.

6 Q. Is it part of your job responsibilities at the jail  
7 to go and see if internal affairs has started an  
8 investigation?

9 A. No.

10 Q. Is it part of your job to question your supervisor as  
11 to what they have done with information that you've given  
12 to them?

13 A. No.

14 Q. On February 8th, 2006, there was an indication that  
15 Nancy Kugler came to you and told you of another inmate  
16 that was making allegations and you told her to go to  
17 internal security?

18 A. Correct.

19 Q. Did you know on February 8th, 2006, that  
20 Gary Feinberg had already been arrested -- I'm sorry. Let  
21 me withdraw that question.

22 The notes indicate that on February 9th Nancy  
23 Kugler said to you that there was another inmate who was  
24 making a complaint?

25 A. Yes.

**Kaufman - Cross/Flynn**

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1 Q. Were you aware that Gary Feinberg was arrested on  
2 February 8th, the day before?

3 A. Yes.

4 Q. The issue of the grievance that inmate Kennedy said  
5 that she filed, do you know if she filed that grievance or  
6 not?

7 A. No.

8 Q. Is it part of your job to investigate whether or not  
9 she had filed a grievance?

10 A. No.

11 Q. Plaintiff's counsel asked you to look at what's been  
12 marked exhibit 30 A which are your notes from January 18,  
13 2006.

14 He pointed out to you that on the bottom of that  
15 Dr. Geraci had signed that document?

16 A. Yes.

17 Q. And this document are your notes regarding the  
18 meeting between yourself, Sara Velasquez and Dr. Geraci?

19 A. Yes.

20 Q. So Dr. Geraci was at the meeting and you had him sign  
21 those notes?

22 A. Correct.

23 Q. But then plaintiff's counsel questioned you about  
24 exhibit 30 B and asked you why Dr. Geraci had not signed  
25 that document?



Kaufman - Cross/Flynn

408

1 A. Correct.

2 Q. And that document is your notes from your interview  
3 or your discussion with inmate Kennedy and Sara Velasquez?

4 A. Correct.

5 Q. And Dr. Geraci wasn't there?

6 A. Correct.

7 Q. Going back to 30 B which are the notes not signed by  
8 the doctor, I want to read you something you wrote in here  
9 about what Linda Kennedy told you.

10 As an afterthought the inmate noted that while  
11 waiting to see the clinician, another inmate, number  
12 199889, stated that PA Feinberg could be very  
13 touchy-feely.

14 Do you see that?

15 A. Yes.

16 Q. Did you ever learn who the other inmate was?

17 A. Yes.

18 Q. That was having a conversation with Linda Kennedy on  
19 that day?

20 A. Yes.

21 Q. Who was that?

22 A. Lowrita Rickenbacker.

23 Q. In terms of the chain of command for yourself,  
24 Mr. Kaufman, your immediate supervisor is Dr. Geraci?

25 A. Correct.

**Kaufman - Cross/Flynn**

409

1 Q. And that is going back to 2005-2006.

2 Who was his supervisor?

3 A. Doctor Iftikhar.

4 Q. Who was her supervisor?

5 A. She would answer to the deputy commissioner.

6 Q. Who would the deputy commissioner answer to?

7 A. To the chief deputy commissioner.

8 Q. Who would the chief deputy commissioner answer to?

9 A. To the commissioner.

10 Q. Does the commissioner make the policy for the

11 Department of Health?

12 A. Yes.

13 Q. Do you make the policy for the department of health?

14 A. No.

15 Q. Do you make the policy for the jail medical unit?

16 A. No.

17 Q. Can you give the jury an example of the limitation of

18 your ability to influence policy at the medical unit?

19 MR. NORINSBERG: Objection.

20 THE COURT: Overruled.

21 A. Yes.

22 For example, there's a general policy about the

23 way professionals are supposed to dress when they come to

24 work in the jail medical unit.

25 And generally speaking it's clean, professional

**Kaufman - Cross/Flynn**

410

1 attire, no T-shirts.

2 It's not within my scope to decide what a  
3 T-shirt is or is not.

4 So is a T-shirt just a plain ordinary colored  
5 shirt or something with rips.

6 If that comes up as an issue, I have to go to my  
7 supervisor with it who goes to his who goes to their's and  
8 up the ladder until it's decided by the commissioner I  
9 supposed.

10 Q. Do you have the power to hire and fire employees?

11 A. No.

12 Q. How about suspend employees?

13 A. No.

14 MS. FLYNN: Thank you.

15 I have no further questions.

16

17 REDIRECT EXAMINATION

18 BY MR. NORINSBERG:

19 Q. You just testified a moment ago that it's not within  
20 your power to decide what is a T-shirt and what's not a  
21 T-shirt; is that correct?

22 A. Correct.

23 Q. It was within your power to actually decide to  
24 interview inmate Kennedy; is that correct?

25 A. Yes.

**Kaufman - Redirect/Norinsberg**

411

1 Q. You took that role upon yourself, correct?

2 A. Yes.

3 Q. No one asked you to do that, correct?

4 A. Correct.

5 Q. And Mr. Feinberg didn't work directly under you,  
6 correct?

7 A. Did not answer to me at all.

8 Q. But you still felt it was important to find out what  
9 Ms. Kennedy had to say, correct?

10 A. Yes.

11 Q. And, yet, once you found that information out, you  
12 didn't report it to anybody in the jail except Dr. Geraci,  
13 correct?

14 A. That's correct.

15 Q. And you said at some point you learned that the other  
16 inmate that Ms. Kennedy was referring to was Lowrita  
17 Rickenbacker?

18 A. Yes.

19 Q. And at would point in time did you learn that,  
20 Mr. Kaufman?

21 A. I don't remember exactly. Sometime after the fact.

22 Q. Well, we're in 2009 now.

23 Did you learn it at some point in 2006?

24 A. I can't speculate as to when I learned it.

25 Q. Did you learn it in some point in 2007-2008?

**Kaufman - Redirect/Norinsberg**

412

1 A. I learned it at some point after that meeting.

2 Q. When did -- who actually gave you that information,  
3 sir?

4 A. I don't know.

5 Q. Well, the inmate's only identified by a number; is  
6 that correct?

7 A. The inmates in the medical unit are down by their  
8 name.

9 Q. In the report you have the other inmate is identified  
10 by number, correct?

11 A. Correct.

12 Q. How did you make the determination that the person  
13 with that number is Lowrita Rickenbacker?

14 A. I made the determination that the person with the  
15 name Lowrita Rickenbacker was that number.

16 Q. And how did you make that determination, sir?

17 A. Once I got the name, I wrote down the number.

18 Q. And when did you do that?

19 A. At some point after the meeting and prior to writing  
20 this I suppose.

21 Q. That's not in your note that you wrote on January  
22 24th, is it?

23 A. What exactly is it that's not in my note?

24 Q. That you identified the other inmate that was  
25 referenced by Ms. Kennedy as being Lowrita Rickenbacker?

**Kaufman - Redirect/Norinsberg**

413

1 A. In my note of January 24th?

2 Q. Yes.

3 A. At the bottom of the note I mentioned her name.

4 Q. But you were directly informed about Lowrita  
5 Rickenbacker during that meeting on January 20, correct?

6 A. I'm getting very confused.

7 Q. You knew Lowrita Rickenbacker's name from the  
8 meeting, correct?

9 A. Which meeting?

10 Q. On January 20, with the four of you?

11 A. Yes.

12 Q. My question is:

13 When did you connect the name with that  
14 particular pin number, the number that's in there?

15 A. I can't tell you specifically when I did that.

16 Q. Would it be fairly --

17 A. When I got the name, I probably looked up the number  
18 so that I could write it in the note without identifying  
19 the name at this point.

20 Q. But you never mentioned that in your note, did you?

21 A. I guess not, no.

22 Q. In fact, today is the first time you ever made that  
23 statement; isn't it, sir?

24 MS. FLYNN: Objection.

25 THE COURT: Sustained.

**Kaufman - Redirect/Norinsberg**

414

1 BY MR. NORINSBERG:

2 Q. Now, you testified earlier regarding your knowledge  
3 or lack of knowledge of Rochelle Ramos; is that correct?

4 A. Yes.

5 Q. Before coming here today, had you ever heard the name  
6 Rochelle Ramos?

7 A. Yes.

8 Q. And when did you first hear Ms. Ramos's name?

9 A. I guess prior to the deposition.

10 Q. That was just a few weeks ago, correct, sir?

11 A. Yes.

12 Q. So from the time that the incident took place in  
13 December of 2005, until your deposition in October 2009,  
14 you had never once heard the name Rochelle Ramos, correct?

15 A. Not to my recollection.

16 MR. NORINSBERG: Thank you.

17 I have nothing further.

18 MS. FLYNN: Nothing further, Judge.

19 THE COURT: You may step down.

20 (The witness steps down.)

21 THE COURT: Please call your next witness.

22 MR. NORINSBERG: At this time plaintiff calls  
23 Carol Manderino.

24 THE COURT: Please remain standing. Put down  
25 your pocketbook. Raise your right hand.

**Mandarino - Direct/Norinsberg**

415

1

2 CAROL MANDERINO,

3 called as a witness, having been first

4 duly sworn, was examined and testified

5 as follows:

6

7 THE COURT: Please be seated.

8 Please state your full name and spell your name

9 slowly for the record.

10 THE WITNESS: Carol E. Manderino,

11 M-A-N-D-A-R-I-N-O.

12 THE COURT: How do you spell your first name?

13 THE WITNESS: C-A-R-O-L.

14 THE COURT: You may proceed.

15 MR. NORINSBERG: Thank you, your Honor.

16

17 DIRECT EXAMINATION

18 BY MR. NORINSBERG:

19 Q. Good afternoon, Ms. Manderino.

20 A. Good afternoon.

21 Q. Are you currently employed?

22 A. Yes.

23 Q. Where are you employed?

24 A. Suffolk County Health Services in Riverhead

25 Correctional facility.



**Mandarino - Direct/Norinsberg**

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1 Q. What is your position there?

2 A. Psychiatric social worker.

3 Q. Could you tell the jury what are your duties and  
4 responsibilities?

5 A. To counsel, crisis intervention, the inmates as they  
6 come in and get them along while they're incarcerated and  
7 suicidal ideation and that's it.

8 Q. How long have you been so employed?

9 A. Since June 2000.

10 Q. Are you what's referred to as a psychiatric social  
11 worker?

12 A. Could you repeat that?

13 Q. A psychiatric social worker?

14 A. Yes.

15 Q. How is that different from a social worker?

16 A. Well, I'm technically a licensed clinical social  
17 worker.

18 I'm also certified in substance abuse and  
19 alcohol counseling.

20 Q. Now, did there come a time when a patient named  
21 Lowrita Rickenbacker came under your care and treatment?

22 A. Yes.

23 Q. When did Ms. Rickenbacker first come under your care  
24 and treatment?

25 A. March of '05.

**Mandarino - Direct/Norinsberg**

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1 Q. Were you her therapist at the Suffolk County  
2 correctional facility?

3 A. Yes.

4 THE COURT: Were you what?

5 MR. NORINSBERG: Her therapist.

6 BY MR. NORINSBERG:

7 Q. How often would you be meeting with Ms. Rickenbacker?

8 A. Approximately one time a week.

9 Q. And did your treatment continue for the better part  
10 of the year 2005?

11 A. Well, she was released in April and then  
12 re-incarcerated in June of '05.

13 Q. So there was a gap in between and then you resumed  
14 the treatment in June '05?

15 A. Yes.

16 Q. Would it be fair to say, Ms. Manderino, from the time  
17 you resumed treatment of Ms. Rickenbacker in June of '05,  
18 that you continuously treated her throughout the rest of  
19 the year 2005?

20 A. Correct.

21 Q. And, in fact, you continued to treat her at least  
22 through January and February of 2006, correct?

23 A. Yes.

24 Q. Now, directing your attention to June 13, 2005, at  
25 that time, Ms. Rickenbacker told you that she engaged in

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1 consensual physical contact with a medical staff member,  
2 correct?

3 A. Correct.

4 Q. That was the first time that you had heard this  
5 particular allegation, correct?

6 A. Correct.

7 Q. And as soon as you heard this allegation, you  
8 reported it to your supervisor, correct?

9 A. Correct.

10 Q. Because you thought this was important information  
11 that your supervisor needed to know, correct?

12 A. Yes.

13 Q. It's not everyday that an inmate reports sexual  
14 contact with a staff member, correct?

15 A. Yes.

16 Q. And your supervisor at that time was Nancy Kugler,  
17 correct?

18 A. Correct.

19 THE COURT: I'm sorry, you said she reported  
20 this consensual sexual activity with whom? Who did she  
21 say she had it with?

22 THE WITNESS: Gary Feinberg.

23 BY MR. NORINSBERG:

24 Q. So she identified Mr. Feinberg, correct?

25 A. Yes, she did.

**Mandarino - Direct/Norinsberg**

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1 Q. So would it be fair to say that as of June 13, 2005,  
2 there were at least two people in the jail medical unit  
3 who knew about the allegations of Ms. Rickenbacker, you  
4 and Ms. Kugler, correct?

5 A. Correct.

6 Q. And as of June 13, 2005, both of you knew that these  
7 allegations concerned a staff member in the jail medical  
8 unit, correct?

9 A. Correct.

10 Q. And you knew that that staff member's name was  
11 Gary Feinberg, correct?

12 A. Yes.

13 Can I add anything? Excuse me. Can I add  
14 anything to that?

15 Q. I'm sure you'll have plenty of opportunity to do that  
16 when Ms. Flynn questions you.

17 In November 2005 Ms. Rickenbacker, once again,  
18 told you about the sexual contact between Mr. Feinberg and  
19 herself; is that correct?

20 A. Correct.

21 Q. And you made a note about that conversation as well;  
22 is that correct?

23 A. Yes.

24 Q. And you reported to your supervisor, Nancy Kugler, as  
25 well, correct?

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1 A. Correct.

2 Q. And on January 20, 2006, Ms. Rickenbacker complained  
3 again to you about sexual contact between herself and  
4 Mr. Feinberg, correct?

5 A. I don't remember the exact date.

6 Q. I would like to show you what's been marked as  
7 Plaintiff's 3 for identification.

8 (Exhibit handed.)

9 A. Yes.

10 Q. Do you recognize that document, Ms. Manderino?

11 A. Yes.

12 Q. What do you recognize that document to be?

13 A. A progress note that I had written after I seen  
14 Lowrita.

15 Q. Did you prepare that note on or about January 20,  
16 2006?

17 A. On January 20.

18 Q. It was exactly on January 20, correct?

19 A. Correct.

20 Q. And you prepared that note and you wrote the note  
21 yourself; is that correct?

22 A. Correct.

23 MR. NORINSBERG: I offer Plaintiff's 3 into  
24 evidence.

25 THE COURT: Any objection?

**Mandarino - Direct/Norinsberg**

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1 MS. FLYNN: No objection.

2 THE COURT: Plaintiff's Exhibit 3 in evidence.

3 (Plaintiff's Exhibit 3 in evidence.)

4 BY MR. NORINSBERG:

5 Q. Now, directing your attention, Ms. Manderino, to the  
6 bottom of that entry. It says:

7 "Inmate claims that she has been abused sexually  
8 for years."

9 Do you see that?

10 A. Yes.

11 Q. Then it says:

12 "She also claims there has been inappropriate  
13 sexual touching in medical department."

14 Do you see that?

15 A. Yes.

16 Q. Did I read that correctly?

17 A. Yes.

18 Q. So on January 20, Ms. Rickenbacker told you that  
19 there had been inappropriate sexual touching in the  
20 medical department, correct?

21 A. Yes.

22 Q. You wouldn't consider that to be consensual, would  
23 you?

24 A. She told me it was consensual.

25 Q. But the way you wrote your note, you said it was

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1 inappropriate sexual touching, correct?

2 A. Yes, but that's open to interpretation.

3 Q. But the words you used when you described this entry  
4 were inappropriate sexual touching in the medical  
5 department, correct?

6 A. Yes.

7 Q. You didn't say anything about a consensual  
8 relationship in this note, did you?

9 A. Not in this note, no.

10 Q. Now, Ms. Rickenbacker told you this again the  
11 following week on January 25th, correct?

12 A. I'm not sure.

13 Q. After Ms. Rickenbacker told you on January 20 that  
14 there was, quote, inappropriate sexual touching in medical  
15 department, end quote, did you report that to Ms. Kugler?

16 A. I don't remember.

17 Q. Well, there's no reference in your note to reporting  
18 it to Ms. Kugler, is there?

19 A. I don't remember.

20 Q. Did you report that to Dr. Geraci?

21 A. No.

22 Q. Now, I would like to show you another document,  
23 another progress note.

24 Take a look at Plaintiff's 4 for identification.

25 (Exhibit handed.)

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1 A. Yes.

2 Q. Did you prepare that note, Ms. Manderino?

3 A. Yes.

4 Q. Was that a progress note that you prepared based on a  
5 counseling session with Ms. Rickenbacker?

6 A. Yes.

7 Q. Is that your handwriting?

8 A. Yes.

9 MR. NORINSBERG: I offer Plaintiff's 4 into  
10 evidence.

11 MS. FLYNN: No objection.

12 THE COURT: Any objection?

13 MS. FLYNN: No objection.

14 THE COURT: Plaintiff's Exhibit 4 in evidence.  
15 Is there a date on that?

16 MR. NORINSBERG: Yes.

17 THE COURT: Can I have the date please.

18 THE WITNESS: January 25th, '05.

19 (Plaintiff's Exhibit 4 in evidence.)

20 THE COURT: '05?

21 THE WITNESS: '06. I'm sorry.

22 BY MR. NORINSBERG:

23 Q. I would like to read from the entry that you wrote on  
24 this date, Ms. Manderino.

25 It says: "Inmate claims she had been touched and



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1 fondled numerous times in the medical department by the  
2 same worker."

3 Do you see that?

4 A. Yes.

5 Q. She also claims she has heard other females on the  
6 tier discussing the same sexual experience.

7 Do you see that?

8 A. Yes.

9 Q. Now, referring to the part where it says that the  
10 inmate claims that she had been touched and fondled  
11 numerous times in the medical department, did you  
12 understand that to be consensual touching?

13 A. Yes.

14 Q. And did you also understand that what  
15 Ms. Rickenbacker heard from other females discussing the  
16 same sexual contact, that that was consensual also?

17 A. I can't speak for them.

18 Q. So if I understand your testimony correctly,  
19 Ms. Rickenbacker mentioned Mr. Feinberg in June 2005,  
20 mentioned it again in November 2000, mentioned him again  
21 on January 20, 2006, and yet again on January 25th, 2006,  
22 correct?

23 A. Correct.

24 But she never really seemed to be bothered by  
25 it. That wasn't her main issue in the session.

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1 Q. But she was bothered enough by it to mention it to  
2 you?

3 A. She mentioned it, but she used to laugh about it.

4 Q. And it was important enough for you to write down in  
5 your notes, correct?

6 A. Correct.

7 Q. And you say she laughed about it but you took it  
8 seriously, didn't you?

9 A. Well, the first time she told me, yes, I did take it  
10 seriously.

11 Q. When Ms. Rickenbacker told you the second time in  
12 November you also took it seriously then, didn't you?

13 A. Yes, I did.

14 But, again, she always laughed and it didn't  
15 bother me.

16 She told me it was consensual. She begged me in  
17 the beginning not to say a word. She didn't want anybody  
18 to know.

19 And the only thing that bothered her was that  
20 she heard the other females talking.

21 Q. You thought it was serious enough that you reported  
22 it to your supervisor, didn't you?

23 A. Yes.

24 Q. So you didn't take this as a laughing matter.

25 You thought this was something that you needed

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1 to discuss with your supervisor, correct?

2 A. Yes.

3 Q. And when you discussed it with your supervisor, she  
4 told you that she was going to bring this issue to  
5 Dr. Geraci's attention, correct?

6 A. Correct.

7 Q. Did you think that it was a laughing matter at that  
8 point?

9 MS. FLYNN: Objection.

10 THE COURT: Overruled.

11 A. Again, it's open to interpretation.

12 Q. Well, you wrote in your November 23rd note:

13 "She joked about it. However, she mentions she  
14 may obtain legal counsel concerning this matter."

15 Correct?

16 A. Correct.

17 Q. You also wrote that she claims she had spoken with  
18 security on this matter, correct?

19 A. Correct.

20 Q. And then you wrote: I reported same to my  
21 supervisor, Nancy Kugler, correct?

22 A. Correct.

23 Q. So regardless of whether Ms. Rickenbacker was  
24 laughing at all when she described this, you understood  
25 this to be a serious allegation, correct?

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1 A. Yes.

2 Q. It was serious enough that you reported it to your  
3 supervisor and your supervisor in turn told you that she  
4 was going to report it to Dr. Geraci, correct?

5 A. Correct.

6 Q. And at that point in time you didn't say to  
7 Ms. Kugler; no, you don't need to report this to  
8 Dr. Geraci. It's just a joke.

9 Did you?

10 A. I didn't say those words. I told her it was  
11 consensual.

12 I did explain to her that she was joking and  
13 laughing about it, that it didn't really bother her in the  
14 least.

15 Q. Is there such a thing in your mind as a consensual  
16 sexual relationship between a staff member and an inmate?

17 MS. FLYNN: Objection.

18 THE COURT: Overruled.

19 A. Repeat that.

20 Q. Is there such a thing in your mind as a consensual  
21 sexual relationship between a staff member and an inmate?

22 A. I'm sorry. Say that again.

23 Q. In your mind is it permissible for a staff member to  
24 engage in sexual contact with an inmate under any  
25 circumstances?

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1 MS. FLYNN: Objection.

2 THE COURT: That's not -- you changed the  
3 question.

4 MR. NORINSBERG: She didn't understand the  
5 question.

6 THE COURT: Okay. I'm going to overrule it.  
7 You can answer that.

8 Is it permissible?

9 THE WITNESS: Is it permissible?

10 THE COURT: Yes.

11 A. No, but it's not my opinion. It has nothing to do  
12 with my opinion.

13 Q. Well, you would agree that under no circumstance  
14 would it ever been permissible for a member of the medical  
15 unit to be having sexual contact of any type with an  
16 inmate, correct?

17 A. Can you say that again. I'm sorry.

18 Q. Would you agree that it would never be permissible  
19 for a member of the medical unit to have any type of  
20 sexual contact with an inmate?

21 A. Permissible? No.

22 Q. It would be a violation of jail rules, wouldn't it?

23 A. Yes.

24 Q. So wouldn't that by itself dictate that this type of  
25 thing would have to be reported?

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1 A. Yes.

2 And I did.

3 Q. And, to your knowledge, did Nancy Kugler speak to  
4 Dr. Geraci?

5 A. I don't know.

6 Q. I would like to read from the same entry which  
7 Ms. Kugler identified as her handwriting.

8 It says: 11/23/06. Above staff member reports  
9 above issue to me. Advised I will take this matter to  
10 Dr. Geraci.

11 Do you recall seeing that in your notes?

12 A. Yes.

13 I expected her to do that, yes.

14 Q. You expected her to go to Dr. Geraci?

15 A. Yes.

16 Q. That's what you thought was going to happen when you  
17 mentioned this to her, correct?

18 A. Right.

19 Q. That's what she told you was going to happen.

20 Did you ever ask Ms. Kugler whether or not in  
21 fact she had reported these allegations?

22 A. At what time period are you talking about?

23 Q. Any time after November 23rd, '05, did you ever ask  
24 her whether she reported these allegations?

25 A. I don't recall.

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1 Q. And when Ms. Rickenbacker told you about  
2 inappropriate sexual touching going on at the January 20th  
3 counseling session, did you ever report that to  
4 Ms. Kugler?

5 A. I don't recall.

6 Q. When she told you again on the 25th that there was  
7 inappropriate sexual contact, did you report that to  
8 Ms. Kugler?

9 A. I don't recall.

10 Q. Can you think of any reason why you wouldn't have  
11 mentioned what Ms. Rickenbacker told you on those two  
12 dates to Ms. Kugler?

13 A. I can't say positively if I did or I didn't.

14 But if I didn't, it wasn't the main problem in  
15 that session.

16 Q. It wasn't the main problem in the session?

17 A. No.

18 Q. But it was important enough for you to actually write  
19 down in your description of the session, correct?

20 A. Correct.

21 Q. If it was not important, then you wouldn't have put  
22 it in your notes, correct?

23 A. Okay, yes.

24 Q. Now, did there come a time when you had a meeting in  
25 January of 2006 with Dr. Geraci, Ms. Kugler and

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- 1 Mr. Kaufman?
- 2 A. Yes.
- 3 Q. And can you tell us what was discussed during that
- 4 meeting?
- 5 A. What happened with Lowrita Rickenbacker.
- 6 Q. What was the purpose of having that meeting?
- 7 A. To inform Dr. Geraci and Rick Kaufman what happened.
- 8 Q. Why was it important to tell them what had happened?
- 9 A. Well, Nancy had brought it to them.
- 10 Q. You were present at the meeting too, correct?
- 11 A. Correct.
- 12 Q. What was your understanding of why it was important
- 13 to tell the other two staff members about
- 14 Ms. Rickenbacker's allegations?
- 15 A. I don't know. They wanted to know.
- 16 Q. Did you also learn at that time about Linda Kennedy,
- 17 another inmate making similar allegations?
- 18 A. No.
- 19 Q. During this January meeting between you, Dr. Geraci
- 20 and Ms. Kugler and Mr. Kaufman, is it your testimony that
- 21 the subject of Linda Kennedy never came up?
- 22 A. No.
- 23 Q. Did you ever learn about Linda Kennedy at some point?
- 24 A. I don't recall, no.
- 25 Q. Whose idea was it to hold a meeting in January 2006?



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1 A. I don't know.

2 Q. Now, I would like to direct your attention back to  
3 the November 23rd note where it says: "Also claims she had  
4 spoken to security."

5 THE COURT: What are you reading from?

6 THE WITNESS: I don't have that.

7 MR. NORINSBERG: Plaintiff's 2.

8 THE COURT: Plaintiff's 2?

9 MR. NORINSBERG: Yes. Do you have Plaintiff's  
10 2?

11 THE WITNESS: No.

12 THE COURT: Plaintiff's 2 is not in evidence.

13 THE WITNESS: No, I don't have it. I only have  
14 these two.

15 BY MR. NORINSBERG:

16 Q. I show you now what's been marked as Plaintiff's 2.

17 MR. NORINSBERG: I offer it. That's actually in  
18 evidence already, your Honor.

19 THE COURT: Not according to my unofficial list.

20 MR. NORINSBERG: Through Ms. Kugler yesterday.

21 THE COURT: You are correct. I stand revised.  
22 It is in evidence.

23 A. Okay.

24 Q. Do you see the part where it says:

25 "Also claims she had spoken to security on this

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1 matter."

2 Do you see that?

3 A. Yes.

4 Q. So Ms. Rickenbacker told you in November of 2005 that  
5 she had previously spoken to security on this matter,  
6 correct?

7 A. She told me that.

8 Q. And whenever that conversation with security took  
9 place, it had to have taken place at some point in the  
10 year 2005, correct?

11 A. I don't know that for sure.

12 Q. Well, she told you about it in the year 2005 when she  
13 was talking about a meeting that had occurred in the past,  
14 correct?

15 A. It may say a lot of things. I don't know that for  
16 sure.

17 Q. But that's what you were told at that time, correct?

18 A. That's what I was told.

19 Q. I would like you to assume there would be evidence in  
20 this case that Ms. Rickenbacker spoke to three persons in  
21 internal security regarding Mr. Feinberg in August 2005;  
22 Sergeant Lunquist, Investigator Olivencia, and  
23 Investigator McCarrick.

24 Did you ever speak with any of these individuals  
25 regarding Ms. Rickenbacker's allegations?

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1 MS. FLYNN: Objection.

2 THE COURT: Sustained as to form.

3 BY MR. NORINSBERG:

4 Q. To your knowledge, did any of the three individuals I  
5 just mentioned ever recommend to you, in August 2005, that  
6 Ms. Rickenbacker should be placed on suicide watch?

7 A. Did they consult me?

8 Q. Did they ever recommend to you that Ms. Rickenbacker  
9 should be placed on suicide watch?

10 A. No.

11 Q. Did you ever receive a referral form indicating that  
12 Ms. Rickenbacker was considered to be potentially  
13 suicidal?

14 A. Yes.

15 Q. That was given to you by CO McCarrick, one of the  
16 three people I just mentioned, correct?

17 THE COURT: By who?

18 MR. NORINSBERG: CO McCarrick,  
19 M-C-C-A-R-R-I-C-K.

20 A. Those referrals aren't directly given to me.

21 Q. Did there come a time where you saw the referral?

22 A. Probably, yes.

23 Q. I would like to show you what's been marked as  
24 plaintiff's 5 for identification.

25 (Exhibit handed.)

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1 A. Yes.

2 Q. Do you recognize that document?

3 A. Probably, yes.

4 Q. What do you recognize that document to be, to the  
5 best of your knowledge?

6 A. When people are put on suicide watch corrections will  
7 refer them to mental health. The referral goes to the  
8 office and we have to see her on suicide watch.

9 Q. Does this document indicate what date the report was  
10 made?

11 A. Yes.

12 Q. The date is August 21, '05; is that correct?

13 A. Correct.

14 Q. And it's prepared by a CO McCarrick, correct?

15 A. I guess. I can barely see the writing. Okay.

16 Q. And this document recommends that Ms. --

17 THE COURT: Is it in evidence?

18 MR. NORINSBERG: I offer plaintiff's 5 into  
19 evidence.

20 THE COURT: Any objection?

21 MS. FLYNN: No objection.

22 THE COURT: Plaintiff's Exhibit 5 in evidence.

23 (Plaintiff's Exhibit 5 in evidence.)

24 BY MR. NORINSBERG:

25 Q. Do you see, directing your attention, Ms. Manderino,

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1 to the last line in that first paragraph. It says:

2 "In my opinion this inmate may be suicidal and  
3 should be seen by mental health."

4 Do you see that?

5 A. Yes.

6 Q. And is that the information that you were given with  
7 respect to Lowrita Rickenbacker in August of '05?

8 A. Yes.

9 Q. But, in fact, you knew from your counseling sessions  
10 with Ms. Rickenbacker that she was not suicidal, correct?

11 A. Correct.

12 MS. FLYNN: Objection.

13 BY MR. NORINSBERG:

14 Q. And, in fact, you noted in your records that  
15 Ms. Rickenbacker did not have any suicidal ideation at  
16 all, correct?

17 A. Correct.

18 Q. You noted that on August 22nd, the day after this  
19 form was submitted, and you noted that again a week later  
20 on August 29; is that correct?

21 A. Correct.

22 But if she was crying, they have to. They're  
23 not trained personnel to know if she's suicidal or not.  
24 They have to take precautions.

25 Q. So if an inmate starts crying, they can be put under

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1 suicide watch?

2 A. Yes.

3 Q. Is that your understanding?

4 A. Yeah. If they seem distraught, yes.

5 Q. Do you know the circumstances that led up to this  
6 suicide referral form being submitted?

7 A. If I read this, it says she was crying.

8 Q. But then you spoke to Ms. Rickenbacker afterwards,  
9 correct, and she told you that she absolutely did not have  
10 any suicide ideation, correct?

11 A. Correct.

12 Q. And you believed her, correct?

13 A. Yes.

14 Q. And you put her right back into general population,  
15 correct?

16 A. Yes.

17 Q. And then you wrote that again in your note the next  
18 week; she strongly denies any suicidal ideation, correct?

19 A. Correct.

20 Q. Did you ever speak to CO McCarrick to see why she had  
21 requested this referral to you?

22 A. Not personally, no.

23 Q. I would like to show you what's been marked as  
24 plaintiff's 7 for identification.

25 (Exhibit handed.)

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1 A. Okay.

2 Q. Do you recognize that document?

3 A. Yes.

4 Q. What do you recognize that document to be?

5 A. My handwriting.

6 Q. Did you prepare that progress note?

7 A. Yes.

8 Q. What's the name on that program note?

9 I'm sorry, what's the date on the progress note?

10 A. 8/25 -- 8/29/05.

11 Q. I show you what's been marked as plaintiff's 6 for  
12 identification.

13 (Exhibit handed.)

14 A. Okay.

15 Q. Do you recognize that document?

16 A. Yes.

17 Q. Did you prepare that document as well?

18 A. Yes.

19 Q. Is that your progress note for August 22nd, '05?

20 A. Yes.

21 MR. NORINSBERG: I offer plaintiff's 6 and  
22 plaintiff's 7 into evidence.

23 THE COURT: Any objection?

24 MS. FLYNN: No objection.

25 THE COURT: Plaintiff's exhibits 6 and 7 in

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1 evidence.

2 (Plaintiff's Exhibits 6 and 7 in evidence.)

3 BY MR. NORINSBERG:

4 Q. You had indicated in exhibit 6 that Ms. Rickenbacker,  
5 quote, strongly denies any suicide ideation, correct?

6 A. Correct.

7 Q. Now, there come a time that you learned that  
8 Ms. Rickenbacker had spoken with internal affairs  
9 regarding Gary Feinberg?

10 A. Could you repeat that.

11 Q. Did there come a time when you learned  
12 Ms. Rickenbacker spoke with internal affairs regarding  
13 Gary Feinberg?

14 A. I'm not sure.

15 Q. To your knowledge, was Ms. Rickenbacker placed in  
16 administrative segregation on February 6, 2006?

17 A. I don't know the exact date, but I know she was put  
18 in administrative segregation.

19 Q. That could be the same date that she made the  
20 complaint to internal affairs; is that correct?

21 MS. FLYNN: Objection.

22 THE COURT: Overruled.

23 A. I don't know. I don't remember.

24 Q. Were you the one who had decided that she should be  
25 placed into administrative segregation?



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1 A. No.

2 Q. Whose decision was it to do that?

3 A. I think it was Lowrita Rickenbacker herself.

4 Q. Did you get any documents relating to this decision?

5 A. I don't remember.

6 Q. I would like to show you what's been marked as  
7 plaintiff's 8 for identification.

8 (Exhibit handed.)

9 Do you recognize that document?

10 A. Yes.

11 Q. What do you recognize that document to be?

12 A. A standard form if someone does go to administrative  
13 segregation.

14 Q. Did you have any involvement in the process that led  
15 to Ms. Rickenbacker being placed into that administrative  
16 segregation?

17 A. No.

18 THE COURT: Is there a date on that document?

19 THE WITNESS: Yes. February 6, '06.

20 THE COURT: '06?

21 THE WITNESS: Yes.

22 BY MR. NORINSBERG:

23 Q. Now, this document was actually part of your file for  
24 Lowrita Rickenbacker, wasn't it?

25 A. Could you say that again.

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1 Q. This document was actually part of your file for  
2 Lowrita Rickenbacker, correct?

3 A. Yes.

4 Q. How did that document get into your file?

5 A. Corrections probably sent it to mental health.

6 Q. At some point you learned that she had been placed  
7 into administrative segregation, correct?

8 A. Yes.

9 Q. It's your testimony that she was placed into  
10 administrative segregation because she wanted to be there,  
11 that's your testimony?

12 A. Yes.

13 Q. Now, you've treated victims of sexual abuse before;  
14 is that correct?

15 A. Yes.

16 MS. FLYNN: Objection.

17 THE COURT: I'm sorry, I didn't hear the  
18 question.

19 MS. FLYNN: I'm sorry. Objection.

20 THE COURT: What's the question?

21 MR. NORINSBERG: You've treated victims of  
22 sexual abuse before; is that correct?

23 MS. FLYNN: Objection.

24 THE COURT: Overruled.

25 A. Yes.

**Mandarino - Direct/Norinsberg**

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1 Q. In your experience, are victims of sexual abuse  
2 sometimes reluctant to come forward with their  
3 allegations?

4 A. Yes.

5 Q. Why is that, Ms. Manderino?

6 A. Shame.

7 Q. Shame?

8 A. Shame.

9 Q. Are there other reasons that you have come across why  
10 people might be reluctant, if they're victims of sexual  
11 abuse, to come forward?

12 A. Not at this time. I don't remember.

13 Q. Now, are you familiar with what's known as a coping  
14 mechanism?

15 A. Yes.

16 THE COURT: A what?

17 MR. NORINSBERG: Coping mechanism.

18 THE COURT: Coping method?

19 MR. NORINSBERG: Mechanism.

20 MS. FLYNN: Objection.

21 THE COURT: Let's hear what it is. Overruled.

22 A. Yes.

23 Q. What is a coping mechanism?

24 A. It's a behavior that an individual will use to help  
25 them get through a stressful period.

**Mandarino - Direct/Norinsberg**

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1 Q. Do victims of sexual abuse employ coping mechanisms  
2 to deal with their situations?

3 A. Yes.

4 Q. Are you familiar with what is known as a defense  
5 mechanism?

6 A. Yes.

7 Q. What is a defense mechanism?

8 A. A defense mechanism is to protect them from stressful  
9 situations also of behavior.

10 Q. Is a defense mechanism different than a coping  
11 mechanism?

12 A. Very similar.

13 Q. Do victims of sexual abuse sometimes employ defense  
14 mechanisms to deal with their situations?

15 A. No.

16 Q. You've never seen that in your career?

17 A. No.

18 Q. You've seen coping mechanisms but not defense  
19 mechanisms, correct?

20 A. Not in sexual abuse.

21 Q. What would be some examples of coping mechanisms?

22 A. Coping mechanisms, it's how they make themselves feel  
23 better and they'll tell themselves a story.

24 Q. Now, from your treatment of Ms. Rickenbacker, you  
25 learned about her personal history; is that correct?

**Mandarino - Direct/Norinsberg**

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1 A. Correct.

2 Q. And you learned that she had been repeatedly sexually  
3 abused as a child, correct?

4 A. Yes.

5 Q. You learned that she had been sexually abused by her  
6 father and uncles, correct?

7 A. Yes.

8 Q. Did you take into account Ms. Rickenbacker's history  
9 of sexual abuse when she was telling you about the  
10 situation with Gary Feinberg?

11 A. Did I take it into account? I don't know what you  
12 mean by that.

13 Q. When she was relaying to you this allegedly  
14 consensual relationship with Mr. Feinberg, did you take  
15 into accounting that she had a long history of sexual  
16 abuse with her father and uncle?

17 A. That was separate.

18 Q. Did you consider the possibility that  
19 Ms. Rickenbacker's history of abuse made her more  
20 vulnerable to Mr. Feinberg?

21 A. Knowing Lowrita Rickenbacker, no.

22 Q. So you didn't take that into account at all; is that  
23 correct?

24 A. I'm not going to say at all. Somewhat.

25 Q. The same summer after you learned about these

**Mandarino - Direct/Norinsberg**

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1 allegations you actually wrote a letter for

2 Ms. Rickenbacker to this Court, correct?

3 A. Correct.

4 Q. In your letter you wrote, quote, Ms. Rickenbacker --

5 MS. FLYNN: Objection.

6 THE COURT: Sustained.

7 BY MR. NORINSBERG:

8 Q. I show you what's been marked for identification as  
9 plaintiff's exhibit 55.

10 (Exhibit handed.)

11 Do you recognize that document?

12 A. Absolutely, yes.

13 Q. What do you recognize that document to be?

14 A. I wrote to the Honorable Judge Spatt on behalf of  
15 Lowrita Rickenbacker.

16 Q. When did you write that letter?

17 A. July 25th, '05.

18 Q. That would be roughly six weeks after  
19 Ms. Rickenbacker first told you about Gary Feinberg,  
20 correct?

21 A. Correct.

22 MR. NORINSBERG: If I could have the document  
23 back for a minute, please.

24 I offer 55 into evidence, your Honor.

25 THE COURT: Any objection?

**Mandarino - Direct/Norinsberg**

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1 MS. FLYNN: No objection, your Honor.

2 THE COURT: Plaintiff's exhibit 55 in evidence.

3 (Plaintiff's Exhibit 55 in evidence.)

4 BY MR. NORINSBERG:

5 Q. In your letter that you wrote on July 25th, 2005, you  
6 wrote:

7 "Ms. Rickenbacker has been exploited and  
8 sexually abused all her life which still continues to this  
9 day."

10 Did you write that, Ms. Manderino?

11 A. Yes.

12 (Continued on next page.)

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**Manderino - Direct/Norinsberg**

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1 BY MR. NORINSBERG:

2 Q. And when you said continues to this day, when you  
3 wrote this letter, she was still in jail, correct?

4 A. Correct.

5 Q. And you were referring to the sexual abuse that was  
6 taking place in jail which she had mentioned, correct?

7 A. No.

8 Q. Isn't it true that when you wrote this letter, you  
9 were aware of the fact that Ms. Rickenbacker had made  
10 allegations against Mr. Feinberg?

11 A. Yes.

12 Q. And when you wrote this letter, you wrote "she had  
13 been sexually abused her whole life."

14 Correct?

15 A. Correct.

16 Q. And when you said "still continues to this day"?

17 A. Correct.

18 Q. You wrote those words just six weeks after you first  
19 learned about Ms. Rickenbacker's Feinberg allegations,  
20 correct?

21 A. Correct. But she didn't consider that abuse. I  
22 was --

23 Q. And you never considered the possibility there was  
24 abuse.

25 Correct?



**Manderino - Direct/Norinsberg**

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1 A. No.

2 Q. So even though to your knowledge Ms. Rickenbacker had  
3 been exploited and sexually abused her whole life, you  
4 never entertained the possibility that she was actually  
5 being exploited by Mr. Feinberg as well?

6 A. No.

7 Q. Is that correct?

8 A. Correct.

9 Q. You never took that into account.

10 Correct?

11 A. No.

12 Not when I wrote that, no.

13 MR. NORINSBERG: Thank you. I have nothing  
14 further.

15 THE COURT: We're going it to take a 15 minute  
16 recess.

17 Please don't discuss the case either among  
18 yourselves or with anyone else, keep an open mind, come to  
19 no conclusion.

20 Please recess yourselves.

21 (Whereupon, the jury retired from the  
22 courtroom.)

23 (Recess taken.)

24 (After recess.)

25 THE CLERK: Jury entering.

**Manderino - Direct/Norinsberg**

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1 (Whereupon, the jury entered the courtroom.)

2 THE COURT: Please be seated, members of the  
3 jury. You may proceed.

4 MS. FLYNN: Your Honor, before I begin, may we  
5 have a sidebar?

6 (Continued on next page.)

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**Manderino - Direct/Norinsberg**

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1 (Whereupon, the following occurred at sidebar.)

2 MS. FLYNN: I wanted to discuss this with the  
3 Court. The letter that plaintiff's counsel just put in  
4 that Ms. Manderino wrote to your Honor makes reference,  
5 heavy reference to the fact that Lowrita Rickenbacker has  
6 drug and alcohol problems, and had drug treatment.

7 I know that you had said I couldn't go into it.  
8 I think they opened the door and now I can get into that.

9 THE COURT: Yes.

10 MS. FLYNN: Thank you.

11 (Continued on next page.)

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**Manderino - Cross/Flynn**

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1 (Whereupon, the following occurred in open  
2 court.)

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4 CROSS-EXAMINATION

5 BY MS. FLYNN:

6 Q. Good afternoon.

7 A. Good afternoon.

8 Q. Can you tell the jury a little bit, Ms. Manderino,  
9 about your educational background?

10 A. I have a two year degree, business degree from  
11 Briarcliff in '92. I have a Bachelor's in science from  
12 Dowling with a concentration of psychology. And my  
13 Master's degree is from Adelphi University and I graduated  
14 in '96, 1996.

15 Q. And do you have any certifications?

16 A. Well, I'm a certified, licensed clinical, certified  
17 social worker. I'm also certified in substance abuse and  
18 alcohol counseling.

19 Q. And are you licensed?

20 A. Yes.

21 Q. What is your license in?

22 A. In social work.

23 Q. When did you start working at the Suffolk County  
24 jail?

25 A. June of 2000.

**Manderino - Cross/Flynn**

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1 Q. And before you started working at the jail, did you  
2 get any kind of security training?

3 A. Yes.

4 Q. And can you tell the jury a little bit what that was  
5 about?

6 A. Well, we went to a training that was run by  
7 corrections, and they inform you of any dangers in the  
8 jail. For example, you have to put the inmate on the far  
9 side of the room so that you can get out first, you have  
10 to be very careful about what's on your desk, right down  
11 to paper clips, any hole punchers, any staplers, anything  
12 personal, you can't have any magazines with anything with  
13 your home address, anything like that. And no personal  
14 photographs of your family or anything, you know.

15 And also we had training on gangs, when you  
16 leave the facility there's a hot dog truck outside, and  
17 you have to be very aware of your surroundings because you  
18 could be followed home. And they explain that right by --  
19 it's right directly from the facility, there's a hot dog  
20 truck and there's always cars around the hot dog truck, so  
21 you have to be aware if anybody is following you on the  
22 way home.

23 Q. What were you told to do if you noticed something  
24 along the lines of a paper clip was missing from your  
25 desk?

**Manderino - Cross/Flynn**

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1 MR. NORINSBERG: Objection on relevancy.

2 THE COURT: Overruled.

3 A. Well, it's also any kind of pens also could be made a  
4 shank, they call it, or toothbrushes or anything like  
5 that, but you have to notify security immediately.

6 Q. Now, is there a social worker code of ethics?

7 A. Yes.

8 Q. And is there a confidentiality component to that?

9 A. Yes.

10 Q. And are there times when you don't keep the  
11 confidentiality of a client?

12 A. Yes.

13 Q. And under the social worker code of ethics, when is  
14 that?

15 A. Suicidal ideations and homicidal ideations.

16 Q. You have told the jury on June 13, 2005 when  
17 Ms. Rickenbacker told you that she was having some  
18 consensual physical relationship you did tell Nancy Kugler  
19 your supervisor?

20 A. Yes, correct.

21 Q. So you did feel it was something that you should pass  
22 on it your supervisor?

23 A. Yes.

24 Q. Were you trained that if you heard something unusual  
25 when you were giving inmates therapy, you should pass it

**Manderino - Cross/Flynn**

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1 on to your supervisor?

2 A. Yes.

3 Q. Now, your job at the jail, what are you there for?

4 What are you there to provide the inmates with?

5 A. Supportive counseling and crisis intervention and to

6 get them through their incarceration.

7 Q. You're there to help them?

8 A. Yes.

9 Q. Do you have anything to do with the security in the  
10 jail?

11 A. Not really. Only except to report whatever I see  
12 fit.

13 Q. Okay. Now, Lowrita Rickenbacker. The plaintiff's  
14 counsel has shown you three or four notes with three or  
15 four of the counseling sessions that you had with her, can  
16 you estimate for the jury how many times altogether you  
17 counseled Ms. Rickenbacker?

18 A. I would say approximately 30, 35 sessions.

19 Q. And the first time that she mentioned the name of  
20 Gary Feinberg to you in June of 2005, what did she tell  
21 you?

22 A. Well, we were talking -- first of all we were talking  
23 about her doing this writing class inside the facility,  
24 and they were exploring like my story, they have you write  
25 a story about yourself and go through issues in your life,

Manderino - Cross/Flynn

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1 and that's where the abuse came in, like family abuse,  
2 incest, things like that.

3 And she, you know, she got emotional over that,  
4 but yet she, she told me about Gary, she said, she told me  
5 that she had heard some girls talking on the bench and  
6 that, she told me that they had consensual physical  
7 relationship. And she did cry, but she cried not because  
8 she was being abused, but because she felt he really cared  
9 about her. And she was really upset that it was possible  
10 he was paying attention to other women in the facility.

11 Q. Was this in June of 2005?

12 A. Yes.

13 Q. And did she ask you not to tell anyone?

14 A. Oh, she begged me. She begged me please don't, she  
15 said I never, never would have told you hadn't I heard  
16 these other girls talking.

17 Q. And at any time while you were counseling Lowrita  
18 Rickenbacker, did she ever tell you that she was being  
19 sexually abused by Gary Feinberg?

20 A. No.

21 Q. Did she ever tell you she was being sexually  
22 assaulted?

23 A. No.

24 Q. Now, you were counseling Lowrita Rickenbacker from  
25 June of 2005 until approximately February of 2006,



**Manderino - Cross/Flynn**

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1 correct?

2 A. Correct.

3 Q. And during this time were you aware that inmate  
4 Rickenbacker had various criminal charges pending against  
5 her?

6 A. Oh, yes. That's what we spoke about mostly.

7 Q. And were you aware that she had attorneys who were  
8 representing her on those charges?

9 A. Yes.

10 Q. Did she also mention to you that she had meetings  
11 with the FBI?

12 A. Yes.

13 Q. Now, did you also know that during the period of time  
14 that you were counseling Ms. Rickenbacker, that she was  
15 appearing in court?

16 A. Oh, yes.

17 Q. In front of State Supreme Court judges?

18 A. Yes.

19 Q. And in front of Judge Spatt?

20 A. Yes. Um-hmm.

21 Q. During the time that you were counseling  
22 Ms. Rickenbacker, did she ever mention that anyone was  
23 sexually abusing her?

24 A. Family members.

25 Q. And do you recall what family member specifically

**Manderino - Cross/Flynn**

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1 that was?

2 A. Well, the current one was her uncle because of  
3 housing, she performed oral sex for housing.

4 Q. And plaintiff's counsel had asked you before in your  
5 letter to Judge Spatt of July 25, 2005, where you  
6 indicated that issues of abuse continued to this very day,  
7 was that who you were talking about?

8 A. That's who I was referring about because if she was  
9 going to be released she was worrying about housing and  
10 where she was going to go and what she was going to do  
11 after, after care.

12 Q. Let's talk about the letters that you wrote on behalf  
13 of Lowrita Rickenbacker. In 2005, was it your habit to  
14 write letters on behalf of your patients?

15 A. No.

16 Q. And you did that for Lowrita Rickenbacker?

17 A. Yes.

18 Q. You did that to help her?

19 A. Yes.

20 Q. And how many letters did you write to Judge Spatt?

21 A. Two.

22 Q. And in those letters did you mention the issues and  
23 problems that you were counseling Ms. Rickenbacker about?

24 A. Absolutely.

25 Q. And what were those issues that you were counseling

**Manderino - Cross/Flynn**

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1 inmate Rickenbacker about?

2 A. Well, we were talking about substance abuse and  
3 treatment, because she had told me that she had no prior  
4 formal treatment, and I thought that she should at least  
5 have that, because many inmates come into the facility and  
6 the first thing they want is a program. But not that they  
7 really want a program, but they just want to get out of  
8 jail. So I felt she was sincere about seeking treatment  
9 for her substance abuse.

10 Q. What did inmate Rickenbacker tell you about her drug  
11 history?

12 A. Oh, it's extensive.

13 Q. Did she tell you what kind of drugs she abused?

14 A. Yes. Crack.

15 Q. Did she tell you when she had begun abusing crack?

16 A. I know it was early on, but I don't know exactly.

17 Q. During the time that you were counseling  
18 Ms. Rickenbacker, did she tell you that on the occasions  
19 when she was not incarcerated she was abusing crack?

20 A. Oh, definitely. Yes.

21 Q. Did you write any other letters on behalf of inmate  
22 Rickenbacker?

23 A. Yes, I did. I wrote to federal probation for her.

24 Q. And would it be --

25 A. And I think another one also. I forgot. To Clare

**Manderino - Cross/Flynn**

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1 Kennedy, I think.

2 Q. And who was that?

3 A. I think that was also federal probation.

4 Q. And these letters that you wrote for

5 Ms. Rickenbacker, why were you writing them?

6 A. Because I truly felt that she needed help. I really  
7 did. I felt that she deserved a chance to get therapy and  
8 drug treatment.

9 Q. Now, in August of 2005, you saw Ms. Rickenbacker  
10 because she was referred to mental health to see if she  
11 should be placed on a suicide watch; is that right?

12 A. Well, she was already on suicide watch.

13 Q. Do the inmates have to be cleared by mental health in  
14 order to stay on a suicide watch?

15 A. Yes, and to get off they need to be seen by a  
16 psychiatrist and a social worker, otherwise they're not  
17 taken off.

18 Q. If a corrections officer feels that an inmate should  
19 go on suicide watch, and there are practitioners down in  
20 the mental health facility, would the inmate be directly  
21 sent to see the practitioners in the mental health  
22 facility?

23 A. Can you repeat that?

24 Q. Yes.

25 What I'm asking is, if a corrections officer

**Manderino - Cross/Flynn**

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1 feels that an inmate should go on suicide watch, they fill  
2 out a referral form; is that right?

3 A. Um-hmm.

4 Q. You have to say --

5 A. Yes.

6 Q. And the inmate is then sent to mental health for  
7 evaluation?

8 A. If the staff is there they will see mental health  
9 first. If not, the corrections will take initiative and  
10 put them on suicide watch for their own safety and then  
11 mental health will evaluate as soon as possible.

12 Q. And the ultimate decision is made by mental health?

13 A. Yes.

14 Q. In August of 2005, did inmate Rickenbacker tell you  
15 what the circumstances were that led to her being placed  
16 on suicide watch?

17 A. Yeah. Yes. She told me that she had a fight with  
18 her boyfriend and she was all upset and she felt insecure  
19 and she was crying about it.

20 Q. Did inmate Rickenbacker ever tell you at that time  
21 that she had been placed in suicide watch by the  
22 corrections officer in some form of retaliation by the  
23 corrections officer?

24 A. No.

25 Q. During the time that you counseled inmate

**Manderino - Cross/Flynn**

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1 Rickenbacker, did she ever make telephone calls from your  
2 office?

3 A. Yes.

4 Q. Who would she make these telephone calls to?

5 A. She would make them to lawyers.

6 Q. And --

7 A. And I think she also once made a phone call to a drug  
8 treatment facility.

9 Q. And while she was on the telephone, did you ever hear  
10 her talk to anyone about Gary Feinberg?

11 A. No.

12 Q. And are you aware that during the time that you were  
13 counseling inmate Rickenbacker, she had a boyfriend who  
14 was not in jail, who was on the outside?

15 A. Yes.

16 Q. Did you ever refer Ms. Rickenbacker to any other  
17 counselors for treatment?

18 A. Yes, I did, because basically we're mental health and  
19 there is a drug and alcohol department, so I sent her to  
20 drug and alcohol to set up a program for her.

21 Q. Now, in November of 2005, inmate Rickenbacker told  
22 you that she had spoken to internal security about Gary  
23 Feinberg.

24 Did you know if that was in fact true?

25 A. Inmates tell you a lot of things. You don't know if

**Manderino - Cross/Flynn**

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1 they're true or not.

2 Q. So it's fair to say that inmate Rickenbacker told you  
3 this but you don't know if this is true?

4 A. Correct.

5 Q. And plaintiff's counsel showed you a document where  
6 Ms. Rickenbacker had been referred to administrative  
7 segregation in February of 2006?

8 A. Correct.

9 Q. And to your knowledge was that the first time that  
10 Ms. Rickenbacker had been disciplined by being sent to  
11 administrative segregation?

12 MR. NORINSBERG: Objection.

13 THE COURT: Overruled.

14 A. That's not a discipline. It's not a disciplinary  
15 action. She herself at the time, she placed herself  
16 there.

17 Q. To your knowledge, what was inmate Rickenbacker's  
18 disciplinary history at the Suffolk County correctional  
19 facility?

20 MR. NORINSBERG: Objection.

21 THE COURT: Sustained.

22 Q. After inmate Rickenbacker was released from custody,  
23 did you ever have conversations with her?

24 A. Yes.

25 Q. And how did those conversations take place?

**Manderino - Cross/Flynn**

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1 A. She called me up at the facility and wanted to see me  
2 because I have a private practice on the outside and she  
3 wanted to continue counseling.

4 Q. And it's fair to say that this conversation took  
5 place after February of 2006?

6 A. Yes, after she was released.

7 Q. And you have your own practice on the outside?

8 A. Yes, I do.

9 Q. And inmate Rickenbacker knew about that?

10 A. Yes, she did.

11 Q. And she called you to continue treatment?

12 A. Yes. As a matter of fact, I think that she had spoke  
13 to some professionals to encourage that I continue  
14 counseling on the outside.

15 Q. Your notation, you have notes from a therapy session  
16 that you had with Ms. Rickenbacker on January 20, 2006.  
17 And in those notes she mentions the situation with Gary  
18 Feinberg.

19 A. Do I have that?

20 Q. Exhibit 31.

21 MS. FLYNN: Counsel, do you have exhibit 31?

22 MR. NORINSBERG: 31 is written on and exhibit 4  
23 and I think exhibit 3 relate to the January sessions.

24 MS. FLYNN: I'm sorry, exhibit 3.

25 Q. And you discussed Gary Feinberg with Ms. Rickenbacker



**Manderino - Cross/Flynn**

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1 on that day?

2 A. Yes.

3 Q. And do you recall that on January 20, 2006, you had a  
4 meeting with Nancy Kugler and Dr. Geraci and Rick Kaufman  
5 at which time you told them about what Ms. Rickenbacker  
6 had been telling you?

7 A. Correct.

8 Q. And during that meeting, did you advise them that  
9 inmate Rickenbacker felt scorned?

10 A. Yes.

11 Q. By what did you mean by that?

12 A. What I meant by that was that she didn't say that she  
13 was being sexually abused, that she was just hurt and  
14 upset, it was kind of like he was cheating on her.

15 MS. FLYNN: Thank you.

16

17 REDIRECT EXAMINATION

18 BY MR. NORINSBERG:

19 Q. Your testimony, Ms. Manderino is that  
20 Ms. Rickenbacker never said she was sexually abused; is  
21 that correct?

22 A. No, she never used that word, no.

23 Q. But she did say that she has been inappropriately  
24 touched in the medical department.

25 Correct?

**Manderino - Cross/Flynn**

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- 1 A. Those are my words.
- 2 Q. But you wrote those words after speaking with her,
- 3 correct?
- 4 A. Correct.
- 5 Q. That was your impression that you had.
- 6 Correct?
- 7 A. That was an impression, yes.
- 8 Q. You didn't mention anything about her being jealous
- 9 about Mr. Feinberg seeing other women, did you?
- 10 A. I didn't note it, but that was the truth.
- 11 Q. You didn't note it in your note of June of 2005, did
- 12 you?
- 13 A. No.
- 14 Q. You didn't note it in your note of November of '05,
- 15 did you?
- 16 A. No.
- 17 Q. You never mention that in your note of January 20th
- 18 of '06, did you?
- 19 A. No.
- 20 Q. You never mention that in your January 25 note, did
- 21 you?
- 22 A. No.
- 23 Q. In fact, you never once mentioned that anywhere in
- 24 the notes, did you?
- 25 A. No, not in my notes, but it's customary that you

**Manderino - Cross/Flynn**

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1 don't put everything in the notes.

2 Q. My question is, Ms. Manderino, in any of your notes  
3 throughout the 30 counseling sessions that you had with  
4 Ms. Rickenbacker, did you ever once mention that fact that  
5 Ms. Rickenbacker was jealous because Mr. Feinberg was  
6 seeing other women?

7 A. No. But --

8 Q. That's a yes or no. The answer is no, correct?

9 A. No, correct.

10 Q. Now, when Ms. Rickenbacker told you on January 25th  
11 that she had been quote fondled and touched numerous times  
12 in the medical department by the same worker, did you  
13 understand that to be consensual?

14 A. Yes.

15 Q. And when she told you that the same thing was  
16 happening to other girls, did you believe that to be  
17 consensual, too?

18 A. That wasn't for me to make a --

19 Q. Did it occur to you as a psychiatric social worker  
20 that Mr. Feinberg might be possibly sexually abusing other  
21 girls in the jail?

22 MS. FLYNN: Objection.

23 Q. Did that occur to you?

24 THE COURT: Sustained.

25 Strike out the answer. The jury is instructed

**Manderino - Cross/Flynn**

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1 to disregard it.

2 Q. When you first heard this information in June of '05,  
3 Ms. Rickenbacker mentioned some other girls on the bench;  
4 is that correct?

5 A. Yes.

6 Q. And tell us what did Ms. Rickenbacker say about the  
7 other girls?

8 A. She said she heard them talking.

9 Q. Talking about having sexual contact with  
10 Mr. Feinberg?

11 A. She didn't say exactly what kind of contact. She  
12 just said she heard them talking on the bench about it.  
13 About Gary, yes.

14 Q. About having some type of contact with Gary, correct?

15 A. Yes. She didn't say specifically though.

16 Q. What did you understand Ms. Rickenbacker to mean when  
17 she was talking to you about the other girls, mentioning  
18 Gary?

19 A. I don't know. We were just dealing with her  
20 feelings.

21 Q. Would it be fair to say that as of June of 2005, you  
22 never considered the possibility that Mr. Feinberg was  
23 actually doing this to other women?

24 MS. FLYNN: Objection.

25 THE COURT: Can you repeat that question,

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1 please.

2 Q. Would it be fair to say after that first time when  
3 you learned about these allegations in June of 2005 you  
4 never once considered the possibility that Mr. Feinberg  
5 might be sexually abusing other women in jail?

6 MS. FLYNN: Objection.

7 THE COURT: Overruled.

8 A. I work in a jail and I sit with rapists, murderers,  
9 child molesters, I don't make any decisions on anyone.

10 MR. NORINSBERG: Move to strike the answer as  
11 nonresponsive.

12 THE COURT: Yes. Motion is granted. The answer  
13 is stricken as not being responsive. The jury is  
14 instructed to disregard it. Listen to the questions.  
15 Most of them are going to call for a yes or no answer,  
16 please try to answer yes or no. If there's some question  
17 that you're not going to be answer yes or no, in that  
18 event instead of making an explanation just say I can't  
19 answer that question can yes or no. That shifts the  
20 burden back to Mr. Norinsberg. Do you understand our  
21 procedure?

22 THE WITNESS: Yes.

23 Q. After Ms. Rickenbacker mentioned the other girls in  
24 June of 2005, did you ever consider the possibility that  
25 Mr. Feinberg might be sexually abusing other women in the

**Manderino - Cross/Flynn**

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1 jail?

2 MS. FLYNN: Objection.

3 THE COURT: Yes. I'm going to sustain it.

4 Q. Now, you told us the first time Ms. Rickenbacker  
5 mentioned this to you, she was crying. Is that correct?

6 A. Correct.

7 Q. And you also told us that when she got emotional when  
8 she was talking about her history of family abuse,  
9 correct?

10 A. Yes.

11 Q. And her history of family incest. Correct?

12 A. Correct.

13 Q. Did you consider that the fact that  
14 Ms. Rickenbacker's background made her particularly  
15 vulnerable to sexual abuse by Gary Feinberg?

16 MS. FLYNN: Objection.

17 THE COURT: Sustained.

18 Q. Now, you testified earlier that you were specifically  
19 trained that if an inmate so much as removes a pen from  
20 your desk you're to notify security immediately; is that  
21 correct?

22 A. Correct.

23 Q. And if an inmate so much as removes a paper clip from  
24 your desk, you're to notify security immediately.  
25 Correct?

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1 A. Correct.

2 Q. Were you ever claims if an inmate claims they were  
3 sexually abused you were to notify security immediately as  
4 well?

5 A. I notified my supervisor.

6 Q. My question is, Ms. Manderino, were you ever given  
7 training that if an inmate claims she has been sexually  
8 abused, you need to notify security immediately?

9 A. No.

10 MR. NORINSBERG: Nothing further, thank you.

11 MS. FLYNN: No further questions.

12 THE COURT: You may step down. Please call your  
13 next witness.

14 MR. NORINSBERG: At this time plaintiff calls  
15 investigator James Wright to the stand.

16

17 **JAMES WRIGHT,**

18 called as a witness, having been first  
19 duly sworn, was examined and testified  
20 as follows:

21 THE COURT: Please state your full name and  
22 spell your last name slowly for the record.

23 THE WITNESS: James Wright, W-R-I-G-H-T.

24 THE COURT: You may proceed.

25 MR. NORINSBERG: Thank you, your Honor.

**Wright - Direct/Norinsberg**

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1

2 DIRECT EXAMINATION

3 BY MR. NORINSBERG:

4 Q. Good afternoon, Mr. Wright.

5 A. Good afternoon.

6 Q. You're here pursuant to a subpoena; is that correct,  
7 sir?

8 A. Yes.

9 Q. And you and I have met once before, have we?

10 A. Yes.

11 Q. We met at your deposition, correct?

12 A. Correct.

13 Q. And at your deposition you gave sworn testimony  
14 relating to your involvement in an investigation in this  
15 case, correct?

16 A. Correct.

17 Q. And you were represented by an attorney, Ms. Flynn,  
18 at that deposition, correct?

19 A. Yes.

20 Q. Have you reviewed your deposition before coming here  
21 today?

22 A. Yes, I have.

23 Q. So you're familiar with the testimony that you gave  
24 in that deposition, correct?

25 A. Yes, I am.



**Wright - Direct/Norinsberg**

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1 Q. Are you currently employed, sir?

2 A. Yes, I am.

3 Q. Where are you employed?

4 A. I'm employed by the Suffolk County Sheriff's office.

5 Q. What is your position at the Suffolk County Sheriff's  
6 office?

7 A. My title deputy sheriff investigator.

8 Q. And what are your duties and responsibilities as a  
9 deputy sheriff investigator?

10 A. I'm assigned to the Internal Affairs section of the  
11 Sheriff's office.

12 Q. And Internal Affairs investigates allegations of  
13 misconduct; is that correct?

14 A. Yes, as it relates to employees of the Suffolk County  
15 sheriff's office.

16 Q. And that would include employees at the jail,  
17 correct?

18 A. Yes.

19 Q. And how long have you been working in Internal  
20 Affairs?

21 A. Since January of 1999.

22 Q. So that would be almost 11 years; is that correct?

23 A. 11 and a half years.

24 Q. Now, directing your attention to December of 2005,  
25 did you become involved in an investigation of Rochelle

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1 Ramos?

2 A. I had taken a telephone complaint involving a  
3 Rochelle Ramos, yes.

4 Q. And you first got involved with the investigation of  
5 Ms. Ramos on December 30, 2005.

6 Correct?

7 A. You're referring to it as an investigation. It  
8 wasn't an investigation at that point. It was a telephone  
9 complaint to the Internal Affairs section.

10 Q. Referring to your deposition, page nine, line 20:

11 "Question: When did you first get involved with  
12 the investigation of Ms. Ramos?

13 "Answer: December 30, 2005."

14 Do you recall being asked that question and  
15 giving that answer, sir?

16 A. If that's the answer that I gave at the time, that's  
17 the answer that I gave at time, but I'm just clarifying if  
18 you're speaking overall, at that point it was not an  
19 official Internal Affairs investigation involving Rochelle  
20 Ramos.

21 Q. Okay. But your first involvement with what  
22 eventually would become the investigation started on  
23 December 30, 2005, correct?

24 A. Yes, that is correct.

25 Q. And you received a telephone call from the Nassau

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1 County Sheriff's office regarding Rochelle Ramos, correct?

2 A. Yes.

3 Q. And you spoke with investigator Terry-Clarke at that  
4 time; is that correct?

5 A. No.

6 THE COURT: Who?

7 A. No, that is not correct.

8 MR. NORINSBERG: It's investigator Terry  
9 T-E-R-R-Y - C-L-A-R-K-E.

10 Q. Your testimony is that's not correct?

11 A. No. I believe the initial telephone complaint came  
12 from investigator Garcia of the Nassau County Sheriff's  
13 office.

14 Q. Referring to your deposition, page 10, line 6:

15 "Question: Who did you speak with from the  
16 Nassau County Sheriff's office?

17 "Answer: I believe it was investigator  
18 Terry-Clarke.

19 MS. FLYNN: Objection.

20 THE COURT: On what ground?

21 MS. FLYNN: That's not contradictory.

22 THE COURT: Well, it's tangentially  
23 inconsistent, at least, it's up to the jury to determine  
24 whether it's inconsistent or not. Not me. If there's any  
25 shadow of a doubt, I let it go in and it's up to you to

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1 decide whether it's inconsistent and you decide that  
2 because you decide the credibility of all the witnesses.

3 Q. Now, did you speak to investigator Terry-Clarke from  
4 the Nassau County Sheriff's office?

5 A. Yes.

6 Q. And you received the phone call on December 30th at  
7 1622 hours; is that correct?

8 A. For the purposes of clarification, I want to state  
9 again that that initial phone call did not come from  
10 investigator Terry-Clarke. It came from investigator  
11 Garcia.

12 Q. Did you receive a phone call from investigator Garcia  
13 on December 30th, at 1622 hours?

14 A. Yes.

15 Q. And 1622 means 4:22 in the afternoon, correct?

16 A. Correct.

17 Q. So as of 4:22 in the afternoon on December 30th,  
18 2005, you were aware of the allegations of Rochelle Ramos,  
19 correct?

20 A. I was aware that there had been a problem with  
21 Rochelle Ramos. I wasn't aware of the full extent of the  
22 allegations at that point.

23 Q. You received a complaint regarding Rochelle Ramos,  
24 correct?

25 A. Correct.

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1 Q. And if that complaint you were advised that Ms. Ramos  
2 had alleged that she had been sexually assaulted in the  
3 jail medical unit, correct?

4 A. Correct.

5 Q. And you learned that it was a male member of the jail  
6 medical unit, correct?

7 A. Correct.

8 Q. You learned that Ms. Ramos had said that this member  
9 of the jail medical staff had placed his fingers in her  
10 vagina, correct?

11 A. Correct.

12 Q. So you understood in essence there was a claim of  
13 some type of sexual assaults taking place.

14 Correct?

15 A. Correct.

16 Q. And you knew that as early as December 2005, December  
17 30, 2005, correct?

18 A. Correct.

19 Q. Now, you were also provided a copy of a sworn  
20 complaint that Ms. Ramos filled out; is that correct?

21 A. Correct.

22 Q. I'd like to show you what's been marked as  
23 plaintiff's 21.

24 THE COURT: For identification?

25 MR. NORINSBERG: For identification.

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1 (Document handed to the witness.)

2 Q. Please take a look at that document, sir.

3 Do you recognize that document?

4 A. Yes.

5 Q. What do you recognize that document to be?

6 A. A supporting deposition from the police department  
7 county of Nassau.

8 Q. And is that a sworn complaint from Rochelle Ramos?

9 A. Yes.

10 Q. What's the date on that complaint?

11 A. 12/30 of '05.

12 Q. And you received that complaint the same day that you  
13 spoke to investigators from the Nassau County Sheriff's  
14 office, correct?

15 A. No, that's not correct.

16 Q. Referring to your deposition, page 24, line 7:

17 "Question: When did you receive the sworn  
18 complaint that you're holding in your hands right now,  
19 plaintiff's 3?

20 "Answer: I don't recall.

21 "Question: Would it have been on the same --  
22 would it have been on the day where you received the call  
23 from Nassau County investigator Terry-Clarke?

24 "Answer: It might have been."

25 Do you recall giving that testimony at your

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1 deposition?

2 A. Yes, I do.

3 Q. So at your deposition you said you might have  
4 received the sworn complaint on December 30th, correct?

5 A. Correct.

6 MR. NORINSBERG: I offer plaintiff's 21 into  
7 evidence.

8 THE COURT: Any objection?

9 MS. FLYNN: No objection.

10 THE COURT: Plaintiff's Exhibit 21 in evidence.

11 (Plaintiff's Exhibit 21 in evidence.)

12 Q. Now, once you received the complaint, you made a  
13 notification to Deputy Sergeant Investigator Meyer; is  
14 that correct?

15 A. Correct.

16 Q. And who was that, sir?

17 THE COURT: Of investigator?

18 MR. NORINSBERG: Deputy Sergeant Investigator  
19 Meyer, M-E-Y-E-R.

20 A. At the time he was the commanding officer of the  
21 Internal Affairs section.

22 Q. And then the sheriff made his decision to investigate  
23 the allegations of Ms. Ramos; is that correct?

24 A. At some point he did.

25 Q. Well, the case was officially opened on January 2,

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1 2006, correct?

2 A. Yes, which was not when I -- it sounded like you were  
3 saying that I notified the sergeant and then the sheriff  
4 opened the case. That was not how it happened.

5 I notified the sergeant on December 30th of the  
6 allegation that was being made.

7 Q. Right.

8 We can agree though as of January 2nd, a few  
9 days later, an official case file was opened. Correct?

10 A. Yes.

11 Q. Now, in the course of your investigation into this  
12 matter, you prepared a case log; is that correct?

13 A. I'm not sure what you're talking about.

14 Q. You prepared a series of notes detailing whatever  
15 work, whatever steps you took during this investigation,  
16 correct?

17 A. Yes, investigator notes.

18 Q. I'd like to show you what has been marked as  
19 plaintiff's 22 for identification. (Handing.)

20 Do you recognize that document, sir?

21 A. Yes.

22 Q. What do you recognize that document to be?

23 A. They're copies of the investigator notes from the  
24 case file.

25 Q. Did you prepare those notes?



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1 A. Yes, I did.

2 Q. And did you do so in the regular course of your  
3 duties as an investigator in Internal Affairs?

4 A. Yes, I did.

5 MR. NORINSBERG: I offer plaintiff's 22 into  
6 evidence.

7 THE COURT: Any objection?

8 MS. FLYNN: No, your Honor.

9 THE COURT: Plaintiff's Exhibit 22 in evidence.  
10 (Plaintiff's Exhibit 22 in evidence.)

11 Q. Now, did you have a chance to review that, your case  
12 notes before you came here today?

13 A. Yes, I did.

14 Q. So you're familiar with those notes, correct?

15 A. Yes, I am.

16 Q. Now, one of the first things that you wanted to do  
17 was to look at the medical records of Ms. Ramos; is that  
18 correct?

19 A. Correct.

20 Q. And you wanted to confirm that Ms. Ramos had in fact  
21 been examined by the jail medical unit on December 29th,  
22 2005, correct?

23 A. Correct.

24 Q. And a you received a copy of the medical records on  
25 January 5th, 2006, correct?

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1 A. Yes.

2 Q. So we can agree that as of January 5, 2005 -- 2006,  
3 you had Ms. Ramos' medical records from the jail medical  
4 unit, correct?

5 A. Correct.

6 Q. And those records indicated that Ms. Ramos had in  
7 fact been treated by a physician assistant named Gary  
8 Feinberg on December 29th, 2005, correct?

9 A. Correct.

10 Q. So you knew just three days after an investigation  
11 had opened that Ms. Ramos had made a claim that she had  
12 been sexually abused by somebody in the jail medical unit,  
13 you now had medical records showing that she had been  
14 treated on the date she said and you had the name of the  
15 person who had treated her, correct?

16 A. Correct.

17 Q. And you knew the name of that person was Gary  
18 Feinberg, correct?

19 A. Correct.

20 Q. And would you consider allegations of sexual abuse by  
21 jail medical unit staff member to be a serious allegation?

22 A. Absolutely.

23 Q. Would you consider an allegation of sexual abuse to  
24 be an allegation that needs to be followed up immediately?

25 A. Yes, I would.

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1 Q. But you didn't interview Gary Feinberg on January  
2 5th, did you, sir?

3 A. No, I did not.

4 Q. In fact, you didn't interview Gary Feinberg at any  
5 time during the entire month of January 2006, did you?

6 A. No, I did not.

7 Q. You didn't interview Gary Feinberg at any time in the  
8 month of February 2006, correct?

9 A. No, I did not.

10 Q. As far as you were concerned, Mr. Wright, there was  
11 no need to interview Gary Feinberg, correct?

12 A. No, that's not correct.

13 Q. Referring to your deposition, a page 22, line 15.  
14 With?

15 "Question: After you received the name of Gary  
16 Feinberg on January 5, 2006, why didn't you attempt to  
17 interview him at that time?

18 "Answer: There was no need at that point."

19 MS. FLYNN: Objection.

20 Q. Do you recall being asked that question and giving  
21 that answer?

22 MS. FLYNN: Objection.

23 THE COURT: Overruled.

24 A. Yes, I do.

25 You were being specific to at that time. At

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1     that particular moment I felt it was not necessary to rush  
2     in and interview Mr. Feinberg on the fifth of January.

3     Q.    As it turned out, Mr. Wright, you never interviewed  
4     Mr. Feinberg; is that correct?

5     A.    No, I did not.

6     Q.    Now, you first considered the possibility of  
7     interviewing Mr. Feinberg as early as January 4, 2006,  
8     correct?

9     A.    We considered interviewing who we eventually  
10    identified as Mr. Feinberg on January 4, 2006, yes.

11    Q.    So the answer to my question is yes, that's when you  
12    first considered interviewing Mr. Feinberg, January 4th,  
13    correct?

14    A.    Yes.

15    Q.    You could have spoken to Mr. Feinberg at any time  
16    that you wanted to in January 2006; is that correct?

17    A.    In theory.

18    Q.    Referring to your deposition, page 69 line 10.

19                "Question: And you could have spoken to PA  
20    Feinberg at any time that you wanted to in January 2006?

21                "Answer: Yes."

22    A.    Yes.

23    Q.    You had the power to summon Mr. Feinberg to come to  
24    your office if you wanted to, correct?

25    A.    Yes, I did.

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1 Q. So you wouldn't even have to go out to the facility  
2 and interview him. You can have him come to you.

3 Correct?

4 A. Yes, I could.

5 Q. And there were no restrictions or limitations in  
6 terms of your ability to reach out and ask him to come to  
7 the office to discuss these allegations, correct?

8 A. Correct.

9 Q. Now, besides Mr. Feinberg, another person that you  
10 wanted to interview was Ms. Ramos, correct?

11 A. Correct.

12 Q. You certainly wanted to hear what Ms. Ramos had to  
13 say about these allegations, correct?

14 A. Correct.

15 Q. That would be an important part of your  
16 investigation, correct?

17 A. Correct.

18 Q. And on January 12th, you spoke to a man who  
19 identified himself as brother-in-law of Ms. Ramos; is that  
20 correct?

21 A. Yes.

22 Q. And this individual told you that Ms. Ramos was at  
23 the Jericho motel at that time, correct?

24 A. Yes.

25 Q. And he told you she's in room 121, correct?

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1 A. Correct.

2 Q. And he actually gave you a phone number where you  
3 could reach Ms. Ramos at that motel, correct?

4 A. Correct.

5 Q. But you didn't call Ms. Ramos at the Jericho motel,  
6 did you, sir?

7 A. Not that I recall.

8 Q. The answer would be no, correct, sir?

9 A. No.

10 Q. And you didn't visit Ms. Ramos at the Jericho motel,  
11 correct?

12 A. Correct.

13 Q. So if I understand your testimony correctly, you  
14 thought it was important to speak to Ms. Ramos, somebody  
15 gave you her phone number, her address and her room number  
16 and you never bothered calling or visiting her, correct?

17 A. At that location, yes, that's correct.

18 Q. You see on your log the next entry after that January  
19 12th is January 25th; is that correct?

20 A. Yes.

21 Q. So there's a 13 day gap from January 12th until  
22 January 25th, correct?

23 A. Correct.

24 Q. Can you tell the members of this jury what  
25 investigation if any did you do during that 13 day gap?

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1 A. I carry a case load of approximately 25 cases, I  
2 could have been working on any number of those cases at  
3 that time while I was waiting for Ms. Ramos to get back to  
4 me.

5 Q. Referring to your deposition page 57, line 17.

6 "Question: What investigation, if any, did you  
7 do during those 13 days relative to Ms. Ramos' complaint?

8 "Answer: Apparently none."

9 Would that be a fair statement, sir?

10 A. As that's phrased, yes.

11 Q. Can we agree, sir, that other than speaking to  
12 Ms. Ramos' brother-in-law on January 12th, for the next  
13 two weeks you did virtually nothing on this case?

14 A. Correct.

15 Q. If you had done any work on this case, you would have  
16 put it down on your work notes.

17 Correct?

18 A. Correct.

19 Q. So the fact that there are no entries during that 13  
20 day period tells us that you did not do any work on in  
21 case.

22 Correct?

23 A. Nothing that I felt needed to be reported.

24 Q. Now, during this 13 day period, did you ever attempt  
25 to call Ms. Ramos?

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1 A. Not that I recall.

2 Q. The answer would be no, wouldn't it be, sir?

3 A. The way you just phrased the question.

4 Q. Referring to your deposition, page 58 line 3.

5 "Question: Did you attempt to call Ms. Ramos  
6 again at the Jericho motel at any time during that two  
7 week time period?

8 "Answer: No."

9 Do you recall giving that testimony, sir?

10 A. Yes, I do.

11 Q. So according to your deposition testimony, you  
12 didn't make any effort to call Ms. Ramos during that two  
13 week time period.

14 Correct?

15 A. Correct.

16 Q. And can you explain to the members of the jury why  
17 didn't you attempt to call Ms. Ramos during that two week  
18 time period from January 12, 2006 to January 25, 2006?

19 A. I had already placed messages for Ms. Ramos to  
20 contact my unit, she had gotten in touch with me, I had  
21 other cases to work on at the time and I knew that she  
22 would turn up sooner or later if she was interested in  
23 pursuing the matter.

24 Q. Referring to your deposition, page 58 line 12.

25 "Question: Why didn't you attempt to call



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1 Ms. Ramos during that two week time period from January  
2 12, 2006 to January 25, 2006?

3 "Answer: I can't say for sure."

4 Do you recall giving that testimony under oath,  
5 sir?

6 A. At that time, yes.

7 Q. You swore to tell the truth, correct?

8 A. At that time I didn't recall.

9 Q. You were telling the truth, correct?

10 A. Yes.

11 Q. No, you didn't say "I couldn't call," you said "I  
12 can't say for sure," correct?

13 A. I misunderstood what you said.

14 Q. Would it be fair to say that at the time of your  
15 deposition you had no idea why you didn't try to reach  
16 Ms. Ramos during that two week period?

17 MS. FLYNN: Objection.

18 THE COURT: Overruled.

19 A. I'm sorry, can you repeat that.

20 Q. Would it be fair to say that at the time of your  
21 deposition you had no idea why you hadn't tried to reach  
22 out to Ms. Ramos during that two week time period?

23 A. At the time of the deposition, yes, that would be  
24 fair to say.

25 Q. And that deposition was held in April of 2009,

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1 correct, sir?

2 A. Correct.

3 Q. So we're talking just five months ago, correct?

4 A. Approximately.

5 Q. Now, during that two week time period, did you ever  
6 once go out to the Jericho motel to try to speak with  
7 Ms. Ramos?

8 A. No.

9 Q. Now, on January 12th, you learned that Ms. Ramos was  
10 going to make a court appearance on January 19, before  
11 Judge Raskin; is that correct?

12 A. Yes.

13 THE COURT: Before judge.

14 MR. NORINSBERG: Raskin. R-A-S-K-I-N.

15 Q. Is that correct, sir?

16 A. If that's what I spelled it in the notes.

17 THE COURT: When was that?

18 MR. NORINSBERG: On January 12th there's an  
19 entry your Honor, that Mr. Wright knew that Ms. Ramos was  
20 going to make a court appearance the following week on  
21 January 19th.

22 Q. Now, Mr. Wright, did you in fact go to the Court  
23 appearance on January 19th to speak to Ms. Ramos?

24 A. No.

25 Q. Can you tell the members of the jury why didn't you

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1 go to the Court appearance that Ms. Ramos was scheduled to  
2 attend on January 19?

3 A. Because I didn't feel it would be the proper venue to  
4 interview her if she had in fact shown up for the Court  
5 appearance.

6 (Continued on next page.)

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1 BY MR. NORINSBERG (Cont'd):

2 Q. Referring to your deposition, page 73, line 22:

3 Question: Why didn't you go to the court  
4 appearance that Ms. Ramos was scheduled to attend January  
5 19, 2006?

6 Answer: I don't know.

7 Do you recall giving that testimony, sir?

8 A. Yes.

9 Q. Again, you gave that testimony under oath.

10 Correct, sir?

11 A. Correct.

12 Q. You swore to tell the truth and you were telling the  
13 truth.

14 Correct, sir?

15 A. Yes, I was.

16 Q. So at your deposition you had no reason, no  
17 explanation as for why you didn't go to the court  
18 appearance or visit Ms. Ramos.

19 Correct?

20 A. Correct.

21 Q. Now, did you ever attempt to see Ms. Ramos in any of  
22 her other court appearance dates?

23 A. No, I did not.

24 Q. Now, you learned the gentleman that you had spoken to  
25 on January 12th, who had identified himself as a

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1 brother-in-law, his name was Tony.

2 Is that correct?

3 A. Correct.

4 Q. And you called Tony back on January 25th.

5 Is that correct?

6 A. Yes.

7 Q. You called Tony back because he wanted to see if he  
8 had delivered the message to Rochelle Ramos that you were  
9 looking to speak to her.

10 Is that correct?

11 A. Correct.

12 Q. Did you ask specifically whether or not he had  
13 delivered the message to Ms. Ramos?

14 A. I don't recall.

15 Q. You asked Tony if he had heard from Ms. Ramos and  
16 knew her whereabouts.

17 Correct?

18 A. Yes.

19 Q. You asked him that on January 25th.

20 Correct?

21 A. Correct.

22 Q. And on January 25th, he told you that she was at  
23 Long Island Jewish Hospital in Manhasset.

24 Is that correct?

25 A. Yes, that's correct.

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1 Q. But you never visited LIJ Manhasset, did you?

2 A. No, I did not.

3 Q. So, if I understand your testimony correctly,  
4 Mr. Wright, you never visited Ms. Ramos while she was at  
5 the Jericho Hotel.

6 You never visited Ms. Ramos at her court  
7 appearance on January 19th.

8 And you never visited Ms. Ramos while she was at  
9 LIJ Manhasset.

10 Correct?

11 A. That's correct.

12 Q. Now, after your investigation concluded you prepared  
13 a case status report.

14 Is that correct?

15 A. Yes.

16 Q. What is a case status report?

17 A. It's a brief synopsis of things that have been done  
18 relevant to a case at that time.

19 It can either be in the form of just providing  
20 an update for the reader, or it can be used as a mechanism  
21 to close out the case if there's not going to be any  
22 further action taken on the case.

23 Q. And this report went to your supervisor.

24 Is that correct?

25 A. Yes.

**Wright - Direct/Norinsberg**

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1 Q. I'd like you to please take a look at  
2 Plaintiff Exhibit 23 for identification.

3 (Whereupon, there was a pause in the  
4 proceedings.)

5 BY MR. NORINSBERG:

6 Q. Did you prepare the report, sir?

7 A. Yes, I did.

8 Q. Is that your case status report?

9 A. Yes, it is.

10 Q. What date did you report that report on?

11 A. February 15, 2006.

12 Q. Did you report that in the regular course of your  
13 business as an internal affairs investigator?

14 A. Yes, I did.

15 MR. NORINSBERG: I offer Plaintiff Exhibit 23  
16 into evidence.

17 THE COURT: Any objection?

18 MS. FLYNN: No objection.

19 THE COURT: Plaintiff Exhibit 23 in evidence.

20 (Whereupon, Plaintiff Exhibit 23 was received in  
21 evidence, as of this date.)

22 BY MR. NORINSBERG:

23 Q. Now, according to your case status report, HIPAA  
24 restrictions complicated your efforts to contact and  
25 interview Ms. Ramos.

Wright - Direct/Norinsberg

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1 Is that correct?

2 A. Correct.

3 Q. And by HIPAA restrictions we are talking the federal  
4 privacy laws for patients.

5 Correct?

6 A. Correct.

7 Q. So you represented to your boss that HIPAA's  
8 restrictions was the reason that you were not able to  
9 speak to Ms. Ramos.

10 Correct?

11 A. Not entirely.

12 Q. Well, you wrote that the HIPAA restrictions  
13 complicated your efforts to contact and interview  
14 Ms. Ramos.

15 Correct?

16 A. In the context of how this was written in that line,  
17 immediately upon her release from the Nassau County  
18 Correctional Facility the attempts to contact her were  
19 complicated by HIPAA restrictions.

20 Q. Well, did HIPAA restrictions stop you from visiting  
21 Jericho Motel --

22 A. No.

23 Q. -- on January 12, 2006?

24 A. No.

25 Q. Did HIPAA restrictions prevent you from calling



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1 Ms. Ramos at the Jericho Motel?

2 A. No.

3 Q. Did HIPAA restrictions prevent you from calling  
4 Ms. Ramos at any time during that two-week period at the  
5 Jericho Motel?

6 A. No.

7 Q. Did HIPAA restrictions prevent you from visiting the  
8 Jericho Motel from January 12th to January 25th?

9 A. No.

10 Q. Did HIPAA restrictions prevent you from meeting  
11 Ms. Ramos outside of court on January 19th, 2006?

12 A. No.

13 Q. The fact is, Mr. Wright, the HIPAA restrictions had  
14 nothing to do with your failure to interview Ms. Ramos.

15 Did they?

16 A. My failure to interview her?

17 Q. Yes.

18 A. I didn't fail to interview her.

19 Q. You never interviewed Ms. Ramos regarding her  
20 allegations in this case, did you, sir?

21 A. I eventually obtained an appointment with Ms. Ramos  
22 to interview her regarding this matter.

23 Q. I didn't ask whether you obtained an appointment,  
24 sir.

25 I asked you whether or not you ever interviewed

**Wright - Direct/Norinsberg**

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1 her.

2 A. I had in place an interview set up for her.

3 Q. Did you ever speak to Ms. Ramos regarding her  
4 allegations in this incident?

5 A. No.

6 The interview was canceled.

7 Q. The interview was canceled because the investigation  
8 was removed from you and put into the hands of the  
9 Criminal Investigation Bureau.

10 Correct?

11 A. I don't recall.

12 Q. Well, you do recall that the investigation was turned  
13 over to CIB.

14 Correct?

15 A. Yes, that's correct.

16 Q. And can we agree that before --

17 MR. NORINSBERG: Strike that.

18 BY MR. NORINSBERG:

19 Q. The investigation was turned over on February 7th of  
20 2006.

21 Is that correct?

22 A. Correct.

23 Q. Now, the first time you actually spoke to Ms. Ramos  
24 was on February 3, 2006.

25 Is that correct?

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1 A. Yes, that's correct.

2 Q. And at that time you asked Ms. Ramos if it would be  
3 okay to talk about the incident.

4 Correct?

5 A. No, I did not.

6 Q. Referring to your deposition, page 65, line 2:

7 Question: Did you ask Ms. Ramos whether it  
8 would be okay to talk to her about the incident at that  
9 time?

10 Answer: Yes.

11 Do you recall being asked that question and  
12 giving that answer at your deposition?

13 A. Yes, I do.

14 Q. So at your deposition you said, yes.

15 You asked Ms. Ramos if it was okay to talk to  
16 her at that time.

17 Correct?

18 MR. NORINSBERG: Objection.

19 THE COURT: Overruled.

20 A. I took that in context of would she be willing to  
21 speak to me regarding the matter.

22 Q. And she told you she'd be willing to speak to you.

23 Correct?

24 A. Correct.

25 Q. But you didn't ask her what happened, did you?

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1 A. No, I did not.

2 Q. And you didn't ask her what happened because you felt  
3 it was not the appropriate time to ask her that question.

4 Correct?

5 A. Correct.

6 Q. But you had asked Ms. Ramos if it would be okay to  
7 talk to her about the incident at that time.

8 Correct?

9 A. I asked her if it would be -- if she would be willing  
10 to speak to me if I set up an appointment to come and meet  
11 with her.

12 Q. Did Ms. Ramos ever tell you during that phone  
13 conversation that she couldn't talk to you on the phone  
14 about this incident?

15 A. She was willing to speak to me, but she was in a day  
16 area in a health facility.

17 And I didn't want to speak to her in that type  
18 of context.

19 Q. My question to you is, Mr. Wright, did Ms. Ramos tell  
20 you during that phone conversation that she couldn't talk  
21 to you on the phone about this incident?

22 A. No.

23 Q. Would you agree the conversation with Ms. Ramos was  
24 brief?

25 A. Yes.

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1 Q. And other than this brief phone conversation, you  
2 never spoke to Ms. Ramos again during your investigation.

3 Correct?

4 A. Correct.

5 Q. And that phone conversation lasted approximately 30  
6 seconds.

7 Correct?

8 A. I wouldn't say.

9 Q. Exactly how long did it last, Mr. Wright?

10 A. I couldn't put a time on it.

11 Q. So from the time that you first learned of  
12 Ms. Ramos's complaint on December 30, 2005, until the time  
13 when your investigation finished, on February 7, 2006, you  
14 spoke only one time to the complainant, Rochelle Ramos, on  
15 the phone.

16 Correct?

17 A. Until the time the investigation was turned over to  
18 another department of the sheriff's office, yes.

19 I only spoke to her one time.

20 Q. And you never once spoke to Mr. Feinberg about the  
21 incident.

22 Correct?

23 A. Correct.

24 Q. So the two main people who were involved in this  
25 incident, Ms. Ramos and Mr. Feinberg, you never got around

**Wright - Direct/Norinsberg**

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1 to interviewing either one of them during your  
2 investigation.

3 Correct?

4 MS. FLYNN: Objection.

5 THE COURT: Overruled.

6 A. I never interviewed either one of them.

7 Q. But one thing you did learn on February 3rd from  
8 Ms. Ramos, she told you that she wanted to pursue criminal  
9 charges.

10 Correct?

11 A. Correct.

12 Q. Now, on February 3rd, 2006, you learned that another  
13 inmate was making similar allegations to Ms. Ramos.

14 Correct?

15 A. That -- correct.

16 Q. On that day, internal affairs received a phone call  
17 from someone named Chris Dudley.

18 Correct?

19 A. Correct.

20 Q. And that came in approximately 9:20 in the morning on  
21 February 3rd.

22 Is that correct?

23 A. Yes.

24 Q. Was that before or after you spoke to Ms. Ramos on  
25 February 3rd?

**Wright - Direct/Norinsberg**

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1 A. I don't recall.

2 Q. And you were actually physically present when that  
3 call came in on February 3rd.

4 Is that correct?

5 A. Yes, I was.

6 Q. You actually overheard another investigator,  
7 Investigator Middleton, speaking to Mr. Dudley about this  
8 complaint.

9 Correct?

10 A. Yes.

11 Q. And you heard from that conversation that this call  
12 involved an allegation of possible sexual abuse in the  
13 jail medical unit.

14 Correct?

15 A. Correct.

16 Q. So at that point in time, you reminded your  
17 commanding officer that you had an open case.

18 Correct?

19 A. Correct.

20 Q. And after the call you were given a copy of the  
21 complaint by Mr. Dudley.

22 Correct?

23 A. Yes.

24 I was given a copy of the complaint. It wasn't  
25 given to me by Mr. Dudley.

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1 Q. You were given a copy of the complaint which  
2 Mr. Dudley had made to internal affairs.

3 Correct?

4 A. Correct.

5 Q. The complaint which specifically referred to  
6 Lowrita Rickenbacker.

7 Correct?

8 A. Correct.

9 Q. I'd like to show you what's been marked  
10 Plaintiff Exhibit 24 for identification.

11 (Whereupon, there was a pause in the  
12 proceedings.)  
13

14 BY MR. NORINSBERG:

15 Q. Do you recognize this document, sir?

16 A. Yes.

17 Q. What do you recognize this document to be?

18 A. A copy of an internal affairs sexual telephone  
19 complaint.

20 Q. Was that the complaint made by Mr. Dudley on February  
21 3rd, 2006?

22 A. Yes.

23 Q. Was that the complaint referring to another inmate,  
24 Lowrita Rickenbacker?

25 A. Yes.



**Wright - Direct/Norinsberg**

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1 Q. And you received that complaint on February 3rd.

2 Is that correct?

3 A. Yes.

4 MR. NORINSBERG: I offer that exhibit into  
5 evidence.

6 THE COURT: Any objection?

7 MS. FLYNN: No objection, your Honor.

8 THE COURT: Plaintiff Exhibit 24 in evidence.

9 (Whereupon, Plaintiff Exhibit 24 was received in  
10 evidence, as of this date.)

11 THE COURT: Who's Mr. Dudley?

12 THE WITNESS: Someone from the outside, your  
13 Honor.

14 BY MR. NORINSBERG:

15 Q. Mr. Dudley identified himself as somebody calling on  
16 behalf of inmate Lowrita Rickenbacker.

17 Is that correct?

18 A. Correct.

19 Q. And can you tell us, sir, what does it say regarding  
20 this complaint?

21 A. Would you like me to read --

22 Q. Please read it to the jury.

23 A. Under nature of complaint it says, the complainant is  
24 calling on behalf of inmate Lowrita Rickenbacker, and  
25 alleges that a staff member of the jail medical unit is

**Wright - Direct/Norinsberg**

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1 sexually abusing inmates.

2 This includes inmate Rickenbacker.

3 Q. Can you continue reading, sir?

4 A. Yeah, I just --

5 THE COURT: By the way, he reads very well.

6 So now we are going to have two people that read  
7 slow. That's good. I mean the volume, I'm not talking  
8 about the content.

9 THE WITNESS: Thank you, your Honor.

10 THE COURT: Okay.

11 A. This includes inmate Rickenbacker.

12 Said someone needs to talk with her and that she  
13 is in court today.

14 Q. So now, as of February 3rd, you have two women  
15 complaining about sexual abuse by a staff member in the  
16 jail medical unit.

17 Correct?

18 A. Correct.

19 Q. You were already aware that as of December 29th,  
20 2005, an inmate had claimed that she had been sexually  
21 assaulted by a member of the jail medical unit.

22 Correct?

23 A. As of December 30th.

24 Q. The complaint came in.

25 But you were aware that an incident had

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1 occurred, according to that inmate --

2 A. It was an allegation of an incident on December 29th.

3 Yes.

4 Q. So you are aware of the December 29th allegation.

5 Now you are aware of another allegation being  
6 made on February 3rd.

7 Is that correct?

8 A. Correct.

9 Q. Now, at that point, did you put two and two together  
10 and conclude that possibly this could be the same person  
11 in the jail medical unit involved in both cases?

12 A. No.

13 Q. It didn't occur to you that these two women were  
14 talking about being sexually abused by somebody in the  
15 jail medical unit might be describing the same person?

16 A. I hadn't spoken to anyone specifically about it.

17 I have no idea who they might be referring to.  
18 There's a lot of people in the jail medical unit.

19 Q. Did you even entertain the possibility that maybe  
20 this was the same person both women were talking about?

21 MS. FLYNN: Objection.

22 THE COURT: Sustained.

23 BY MR. NORINSBERG:

24 Q. Can we agree that even after you received  
25 Mr. Dudley's call, you still did not attempt to speak to

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1 Mr. Feinberg?

2 A. Correct.

3 Q. As far as you were concerned, even at that point,  
4 even after a second complaint, you didn't see any reason  
5 to talk to Mr. Feinberg.

6 Correct?

7 A. At that point, I had no reason to believe that  
8 Mr. Feinberg was in any way associated with the complaint  
9 being made by Mr. Dudley.

10 Q. And after you received this phone call, did you  
11 attempt to speak to anybody in the jail medical unit  
12 regarding these claims?

13 A. No.

14 Q. Well, that would be one way to find out if, perhaps,  
15 the call coming in from Mr. Dudley, and the complaint that  
16 was referenced, was connected to Ms. Ramos's complaint.

17 A. Not at all.

18 Q. Do you mean to tell me it wouldn't have occurred to  
19 you to go to the jail medical unit to interview some of  
20 the employees?

21 A. Not at that point.

22 Q. As it turned out, you never went to the jail medical  
23 unit, did you?

24 A. Specific to this incident?

25 Q. Specific to either one of these claims.

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1 A. No.

2 Q. You know who Dr. Geraci is, correct?

3 A. Correct.

4 Q. He's the medical director in the jail medical unit.

5 Correct?

6 A. Correct.

7 Q. At any point in January of 2006, did you ever speak  
8 to Dr. Geraci regarding the allegations made by Ms. Ramos?

9 A. No.

10 Q. Did you ever speak to Dr. Geraci at any point in your  
11 investigation, even after you learned about the second  
12 complaint?

13 A. No.

14 Q. As far as you were concerned, it wasn't necessary to  
15 speak to the director of the jail medical unit.

16 Correct?

17 A. No.

18 Q. Even though the employee clearly worked in the jail  
19 medical unit, and clearly was part of the medical staff,  
20 you didn't feel it was necessary to speak to anybody in  
21 the jail medical unit.

22 Correct?

23 A. Correct.

24 Q. Now --

25 THE COURT: I think we better take a recess at

**Wright - Direct/Norinsberg**

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1     this time.

2                 Members of the jury, we are going to recess, as  
3     you know, until Monday, November 16th. Tomorrow I have  
4     other matters I take care of. We will recess until  
5     Monday, November 16th at 9:30 a.m.

6                 In the meantime, please do not discuss this  
7     case, either among yourselves or with anyone else. Keep  
8     an open mind. Come to no conclusions. Do not read  
9     Newsday. Do not watch Channel 12.

10                Those of you who are employed, I think it's a  
11     good time to go to work and catch up with all the work you  
12     are missing. There may be some unkind, unpleasant people  
13     in your place of employment that might come up to you and  
14     say, how come you couldn't get out of jury duty? I always  
15     get out of jury duty. You know there are people like  
16     that.

17                And I would suggest that, if they say that, that  
18     you respond that sitting on a jury in a federal court is  
19     not a burden. It is not even an obligation. It is a  
20     privilege. In my view, the second highest privilege of  
21     American citizenship.

22                And when this case is over I'm going to tell you  
23     what the highest privilege of American citizenship is. So  
24     now you have three things to look forward to. One, what's  
25     the highest privilege of American citizenship? Two, where

1 is it we all have to wait? And, three, the case is over.

2 We are going to recess until Monday, November  
3 16th, at 9:30 a.m. Have a nice weekend.

4 ALL JURORS: You too.

5 THE COURT: Please recess yourselves.

6 (Jury leaves the courtroom.)

7

8 THE COURT: 9:30 Monday morning.

9 MS. FLYNN: Judge, may I ask if we could be  
10 provided with an update from plaintiff's counsel as to the  
11 whereabouts of his client?

12 THE COURT: As to the whereabouts of his client?  
13 Why. Do you want to subpoena her?

14 MS. FLYNN: I would like to know if and when  
15 she's going to appear in court now that we are on the  
16 second day of trial and there's still no appearance by  
17 her.

18 THE COURT: That's what makes this case so  
19 interesting. We wait in eager anticipation to see the  
20 plaintiff, maybe. I don't know.

21 I assume plaintiff's counsel, who seems to know  
22 what he's doing, will bring her in or make other  
23 arrangements.

24 I assume.

25 MR. NORINSBERG: Fair assumption, your Honor.

1 THE COURT: Okay.

2 We will see you on Monday, November 16th, at  
3 9:30 a.m. as the drama unfolds. You have to be back at  
4 that time.

5 THE WITNESS: Yes, your Honor.

6 MR. NORINSBERG: Your Honor, just a request  
7 before we go off the record that we'd like to be provided  
8 with a copy of this warrant for Ms. Rickenbacker that  
9 Ms. Flynn had referred to earlier.

10 THE COURT: There's a warrant outstanding for  
11 Ms. Rickenbacker?

12 MR. NORINSBERG: That's what Ms. Flynn  
13 represented.

14 MS. FLYNN: Yes.

15 MR. NORINSBERG: We'd just like to get a copy of  
16 it.

17 THE COURT: Sure.

18 MS. FLYNN: Would you like a copy, Judge?

19 THE COURT: Yes.

20 MS. FLYNN: If I may also, Judge, we have the  
21 defendant's requests to charge.

22 THE COURT: Good.

23 MS. FLYNN: May I give you those?

24 THE COURT: Sure.

25 Did you give a copy to counsel?



1 MS. FLYNN: I will.

2 Here's the warrant.

3 THE COURT: Good.

4 I can use all the help I can get.

5 MS. FLYNN: Thank you.

6 THE COURT: All right.

7 We'll see you Monday morning.

8 (Whereupon, the trial was adjourned until

9 Monday, November 16th, 2009, at 9:30 a.m.)

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